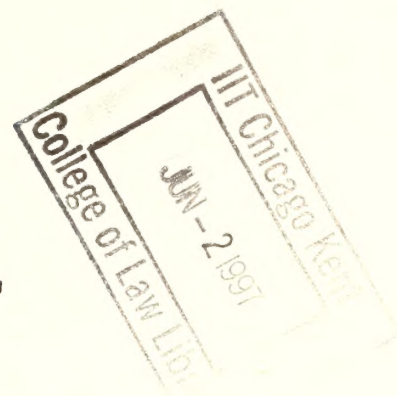
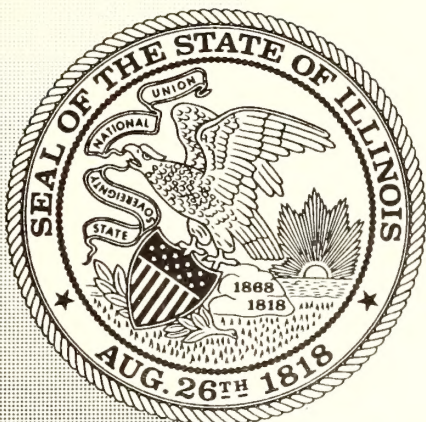


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1997

Illinois Register

Rules of Governmental Agencies

Volume 21, Issue 22 — May 30, 1997

Pages 6286 - 6633

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.sos.state.il.us>

published by
George H. Ryan
Secretary of State



Printed on recycled paper

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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Child Welfare Agencies2) Code Citation: 89 Ill. Adm. Code 4013) Section Numbers:

401.1	Repeal
401.2	Repeal
401.3	Repeal
401.4	Repeal
401.5	Repeal
401.6	Repeal
401.7	Repeal
401.8	Repeal
401.9	Repeal
401.10	Repeal
401.11	Repeal
401.12	Repeal
401.13	Repeal
401.14	Repeal
401.15	Repeal
401.16	Repeal
401.17	Repeal
401.18	Repeal
401.19	Repeal
401.20	Repeal
401.21	Repeal
401.22	Repeal
401.23	Repeal
401.24	Repeal
401.25	Repeal
401.26	Repeal
401.30	New
401.40	New
401.100	New
401.110	New
401.120	New
401.130	New
401.140	New
401.150	New
401.160	New
401.200	New
401.210	New
401.220	New
401.230	New
401.240	New
401.250	New
401.260	New
401.270	New

Proposed Action:

401.1	Repeal
401.2	Repeal
401.3	Repeal
401.4	Repeal
401.5	Repeal
401.6	Repeal
401.7	Repeal
401.8	Repeal
401.9	Repeal
401.10	Repeal
401.11	Repeal
401.12	Repeal
401.13	Repeal
401.14	Repeal
401.15	Repeal
401.16	Repeal
401.17	Repeal
401.18	Repeal
401.19	Repeal
401.20	Repeal
401.21	Repeal
401.22	Repeal
401.23	Repeal
401.24	Repeal
401.25	Repeal
401.26	Repeal
401.30	New
401.40	New
401.100	New
401.110	New
401.120	New
401.130	New
401.140	New
401.150	New
401.160	New
401.200	New
401.210	New
401.220	New
401.230	New
401.240	New
401.250	New
401.260	New
401.270	New

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NOTICE OF PROPOSED AMENDMENTS

401.300	New
401.310	New
401.320	New
401.330	New
401.340	New
401.350	New
401.360	New
401.370	New
401.380	New
401.400	New
401.410	New
401.420	New
401.430	New
401.440	New
401.450	New
401.460	New
401.470	New
401.500	New
401.Appendix A	New
401.Appendix B	New
401.Appendix C	New
401.Appendix D	New
401.Appendix E	New
401.Appendix F	New
401.Appendix G	New
401.Appendix H	New

4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: The DCFS-Office of Inspector General conducted a study of licensed child welfare agencies which provide services to Department clients. This study uncovered serious deficiencies in the operation of licensed child welfare agencies in the State of Illinois around several distinct areas. Those areas include the qualifications and suitability of the board of directors, the financial and executive management of the child welfare agency, requirements for agency personnel, ethical matters (such as a clearly defined conflict of interest policy), the initial licensing process and licensing renewal for child welfare agencies, and the operations of for-profit child welfare agencies. Since that report was released, the Department has been working with licensed child welfare agencies, advisory groups, and children's advocates to develop an appropriate response. These proposed changes to the licensing standards for child welfare agencies are the Department's response, in part, to the recommendations made by the Office of Inspector General.

6) Will these proposed amendments replace an emergency rule currently in effect? No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:
- Jacqueline Nottingham, Chief
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 222
Springfield, Illinois 62701-1498
217/524-1983
TTY: 217/524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Public hearings have been scheduled on these rules. Persons are asked to limit their testimony to a maximum of 15 minutes per person. Persons needing translation or interpretation assistance in order to provide their comments should address their request for such assistance to the Office of Rules and Procedures above. The public hearings are scheduled as follows:

Chicago	Springfield
July 15, 1997	July 17, 1997
2:00 p.m.	2:00 p.m.
State of Illinois Center	Statehouse
160 N. LaSalle	Second and Capitol Streets
Room C-500, Fifth floor	Room 114
Chicago, Illinois	Springfield, Illinois
312/814-4650	217/524-1983
Collinsville	
July 21, 1997	
2:00 p.m.	
State of Illinois Regional Complex Building	
1100 Eastport Plaza Drive	
Collinsville, IL 62088	
618/346-3613	

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: For profit child welfare agencies.
- B) Reporting, bookkeeping or other procedures required for compliance: These rules require the maintenance of specific financial, children's, and personnel records. In addition, specific financial management requirements have been added to the rules.
- C) Types of professional skills necessary for compliance: The child welfare agency will need to hire qualified business or financial management personnel to comply with the financial management requirements. Some child welfare agencies may need to hire additional persons with a Master of Social Work or a Master's degree in a human services field in order to comply with the requirements for the agency executive director or the child welfare supervisor.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for this rulemaking was not anticipated when the Department last filed regulatory agendas.

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 401

LICENSING STANDARDS FOR CHILD WELFARE AGENCIES

Section	Purpose (Repealed)	401.1
401.1	Definitions (Repealed)	401.2
401.2	Effective Date of Standards (Repealed)	401.3
401.3	Application for License (Repealed)	401.4
401.4	Application for Renewal of License (Repealed)	401.5
401.5	Provisions Pertaining to License (Repealed)	401.6
401.6	Provisions Pertaining to Permit (Repealed)	401.7
401.7	Incorporation (Repealed)	401.8
401.8	Composition and Responsibilities of the Governing Body (Repealed)	401.9
401.9	Finances (Repealed)	401.10
401.10	The Administrator (Repealed)	401.11
401.11	Social Work Supervisors (Repealed)	401.12
401.12	Child Welfare Workers (Repealed)	401.13
401.13	Professional Staff (Repealed)	401.14
401.14	Support Personnel (Repealed)	401.15
401.15	Volunteers (Repealed)	401.16
401.16	Background Checks (Repealed)	401.17
401.17	Legal Safeguards of Children Served (Repealed)	401.18
401.18	Required Written Consents (Repealed)	401.19
401.19	Agency Responsibility (Repealed)	401.20
401.20	Interstate Placement of Children (Repealed)	401.21
401.21	Health and Medical Services for Children (Repealed)	401.22
401.22	Records and Reports (Repealed)	401.23
401.23	Records Retention (Repealed)	401.24
401.24	Agency Supervised Foster Family Homes, Group Homes and Day Care and Night Care Homes (Repealed)	401.25
401.25	Severability of This Part (Repealed)	401.26

SUBPART A: INTRODUCTION AND DEFINITIONS	
401.30	Purpose
401.40	Definitions

SUBPART B: PERMITS AND LICENSES	
401.100	Application for License
401.110	Provisions Pertaining to Permits
401.120	Provisional Licenses
401.130	Provisions Pertaining to Licenses
401.140	Application for Renewal of License

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SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT	
401.150	Acceptance of Accreditation in Lieu of License Renewal Study
401.160	Voluntary Surrender of License

SUBPART D: PERSONNEL REQUIREMENTS	
401.200	Incorporation
401.210	Composition and Responsibilities of the Governing Body
401.220	Organization and Administration
401.230	Finances
401.240	Background Checks
401.250	Required Reporting to the Department
401.260	Required Record Keeping
401.270	Records Retention

SUBPART E: SERVICES TO CHILDREN	
401.300	The Executive Director
401.310	Child Welfare Supervisors
401.320	Child Welfare Workers
401.330	Licensing Staff
401.340	Professional Staff
401.350	Support Personnel
401.360	Use of Volunteer Services
401.370	Non-Discrimination Against Employees Who Report Suspected Licensing Violations
401.380	Personnel Records

SUBPART F: SEVERABILITY CLAUSE	
401.500	Severability of This Part

APPENDIX A	Licensing Progression for Child Welfare Agencies
APPENDIX B	Requirements for Operation of Branch Offices
APPENDIX C	Financial Analysis of Child Welfare Agency Operations
APPENDIX D	Minimum Requirements for a Risk Management Plan
APPENDIX E	Acceptance of Voluntary Surrender of License - No Investigations Pending

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- APPENDIX F Acceptance of Voluntary Surrender of License - Investigations Pending
- APPENDIX G Acceptable Human Services Degrees
- APPENDIX H Professionals Who Must Be Registered or Licensed

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 11351, effective November 12, 1981; amended at 7 Ill. Reg. 3428, effective April 4, 1983; amended at 11 Ill. Reg. 17511, effective October 15, 1987; amended at 21 Ill. Reg. 4502, effective April 1, 1997; amended at 21 Ill. Reg. _____, effective _____.

Section 401.1 Purpose (Repealed)

- a) The purpose of this part is to prescribe the standards for licensure as a child welfare agency and to describe how to apply for a license.
- b) The licensing standards set forth in this part are applicable to child welfare agencies as defined in the Child Care Act.

(Source: Repealed at 21 Ill. Reg. _____, effective _____.)

Section 401.2 Definitions (Repealed)

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this part.

"Background check" means:

- a criminal history via fingerprints of persons age 18 and over which are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate, or via a BEABS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

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"Child" means any person under 18 years of age. (Section 2-01 of the Child Care Act of 1969 (225 ILCS 10/2-01))

"Child care facility" means any person, group of persons, agency, association, or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. (Section 2-05 of the Child Care Act of 1969)

"Child welfare agency" means a public or private child care facility receiving any child or children for the purpose of placing or arranging for placement of the child or children in foster family homes or other facilities for child care, apart from the custody of the child's or children's parents. (Section 2-08 of the Child Care Act of 1969)

"Conditional employee" means an individual (including any substitute or assistant) who has applied for and been conditionally selected to perform child care functions or administrative, professional, or support functions that allow access to children as defined in this Section, and who has commenced such duties while awaiting the results of the background check required by this part.

"Department" means the Illinois Department of Children and Family Services. (Section 3-02 of the Child Care Act of 1969)

"Initial background check" means the individual has cleared a check of the Child Abuse and Neglect Tracking System and the Statewide Child Sex Offender Registry.

"License" means a document issued by the Department which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" for purposes of background checks means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4-4 of the Child Care Act of 1969)

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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"permit" means a one-time-only document issued by the Department for a six-month period to allow the individual(s) agency or organization to become eligible for a license.

"Persons subject to background checks" means:

- the operator(s) of the child care facility; and
- all current and conditional employees of the child care facility; and
- any person who is used to replace or supplement staff; and
- any person who has access to children as defined in Section 385.387-Definitions of 89 Ill. Adm. Code 385.385-Background Checks.

If the child care facility operates in a family home, the license applicant(s) and all members of the household age 13 and over are subject to background checks as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.4 Application for License (Repealed)

- a) The application for license shall be completed by the officers of the governing body of the child welfare agency or its authorized representative on forms prescribed and furnished by the Department.
- b) For the application to be considered complete, the following shall be attached to the application:

- 1) articles of incorporation and bylaws indicating that the agency's corporate status is in good standing with the Illinois Secretary of State;
 - 2) statement of purpose including child care services and the types of child care facilities to be operated and supervised by the agency;
 - 3) list of officers, board members and committees of the governing body;
 - 4) operating budget;
 - 5) range of services;
 - 6) staffing plan which includes job descriptions and the qualifications of the staff; and
 - 7) a list of persons subject to the background check requirements of 89 Ill. Adm. Code 385-Background Checks and each person's complete signed authorization to conduct the background check.
- c) A new application shall be filed.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 1) when an application for license has been withdrawn and the agency seeks to reapply;
 - 2) when there is a change of address of the child welfare agency;
 - 3) when there is a change of name, ownership or corporate status of the agency; or
 - 4) not sooner than 12 months after the Department has revoked or refused to renew a license and a new license is sought.
- d) A new application may be submitted at any time when a license permit or application has been voluntarily surrendered or withdrawn by the applicant.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.5 Application for Renewal of License (Repealed)

- a) Application forms for license renewal shall be mailed to the child welfare agency by the Department six months prior to the expiration date of the license;
- b) the completed application shall be submitted to the Department three months before the date of the expiration of the child welfare agency's license;

c) Upon receipt of the application for license renewal, the Department shall conduct a license study in order to determine that the child welfare agency continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study.

- d) When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to thirty (30) days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days if good cause is shown. "Good cause" includes but is not limited to shortages of staff.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.6 Provisions Pertaining to License (Repealed)

- a) A child welfare agency license is valid for four years unless revoked by the Department or voluntarily surrendered by the licensee.
- b) the child welfare agency shall adhere to the provisions specified on the license.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- c) The license shall not be transferred or transmitted to another person or other legal entity;
- d) The license shall not be valid for an address other than the address shown on the license;
- e) The current license shall be displayed at the agency headquarters at all times;
- f) There shall be no fee or charge for the license;

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.7 Provisions Pertaining to Permit (Repealed)

- a) A permit shall not be issued prior to the following:
- 1) completion of the application for license and submission to the Department;
 - 2) employment of a qualified administrator who has passed the background check requirements of 89 Ill. Adm. Code 305; Background Checks and development of a projected staffing plan indicating the time table by which qualified staff shall be hired;
 - 3) established procedures and forms for required records and reports;
 - 4) a written plan which indicates that requirements for a license shall be met within the permit period; and
 - 5) demonstration of financial capability through a projected budget.
- b) A permit shall not be issued retroactively;
- c) The permit shall not be renewable;
- d) The permit shall not be transferred or transmitted to another person or other legal entity;
- e) The permit shall not be valid for an address different from the address shown on the issued permit;
- f) The child welfare agency shall adhere to the provisions specified on the permit;
- g) A current permit shall be on display at the agency headquarters at all times;
- h) A license shall be issued any time within the six months period covered by the permit provided the facility achieves and maintains compliance with the Department's licensing standards;
- i) There shall be no fee or charge for the permit;

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.8 Incorporation (Repealed)

The child welfare agency or the responsible governing body shall be incorporated, and a copy of the articles of incorporation shall be filed with

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

the Department at the time of application. A copy of any later amendment or a copy of a certificate of dissolution shall be filed as they occur.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.9 Composition and Responsibilities of the Governing Body (Repealed)

- a) The governing body of a child welfare agency which is incorporated as not-for-profit shall be a Board of Directors composed of at least five persons. All board members shall be of reputable and responsible character. The governing body of a child welfare agency which is incorporated as for-profit shall be the owner(s) who shall be of reputable and responsible character. The governing body shall be responsible to the Department for maintaining the standards as set forth in this part.
- b) The governing body shall:
- 1) establish written by-laws;
 - 2) assure that the child welfare agency operates at all times with an administrator who, by official notice, is made known to the Department;
 - 3) hold at least two meetings annually;
 - 4) keep written records or minutes of all Board meetings reflecting official actions of the Board;
 - 5) officially notify the Department of any major changes in the corporate structure or a change in the administrator of the child welfare agency, including articles of incorporation and bylaws, board membership, officers, or other changes in services provided by the agency;
 - 6) establish written policies of the child welfare agency which shall be made available to all board members and employees including services to be provided by the agency, admissions, personnel policies, fiscal operations, care of children, and other policies as needed to direct the agency such as family visitation, community contacts with children and function of the agency administrator;
 - 7) provide and maintain permanent offices accessible to the public and appropriate for the administrative program and supportive services. These offices shall be staffed during regular hours shall be equipped with telephones and shall have a permanent mailing address;
 - 8) maintain and keep all records and documents required by this part in the State of Illinois where they shall be readily available for licensing review;
 - 9) assure fidelity bonding of fiscally responsible officers and employees against breach of fiduciary duty or the loss of money securities or other property which the agency may sustain

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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through any fraudulent or dishonest act or act committed by an officer or employee acting alone or in collusion with others. These employees must be bonded regardless of whether the employee is elected or appointed or whether the employee is compensated by salary, and

- 1) to assure that all persons working directly with children are of reputable character;

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.10 Finances (Repealed)

- a) The agency shall maintain a degree of financial solvency that insures adequate care of the children for whom it has assumed responsibility. An agency is considered insolvent if its financial condition is such that the sum of its debts is greater than all of its property, at a fair valuation, exclusive of property transferred or concealed or removed with intent to hinder delay or defraud its creditors. (This definition of "insolvency" is based on the definition contained in the United States Bankruptcy Code of 1978, 11 U.S.C. 101(f)(2)).
- b) The agency shall maintain fiscal records which shall include:
- 1) current and projected operating budget; and
 - 2) financial records annually audited and certified by public accountants not affiliated with the agency.
- c) The above records shall be maintained and kept in the State of Illinois where they shall be readily available for licensing review.
- d) A certified copy of the agency's annual audit as performed by an independent auditor shall be submitted to authorized Department staff upon request.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.11 The Administrator (Repealed)

- a) The administrator is that person designed by the board or owners to carry out the day-to-day management of the agency and the established policies and procedures.
- b) An administrator shall have:
- 1) a Master's Degree from an accredited school of social work and three years work experience in social work administration or social work supervision; or
 - 2) a Master's Degree in a human services field and three years work experience in human services administration or supervision; or
 - 3) a Bachelor's Degree from an accredited 4 year college or university and four years of social work experience at least two years of which were in administration.

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- c) All persons currently serving as administrator who have served in that capacity for a minimum of five (5) years immediately preceding the adoption and publication of this part shall be deemed qualified. If there is no social work supervisor the administrator shall in addition meet the qualifications for a social work supervisor as defined in Section 401.12.
- e) A person/persons shall be appointed to act in behalf of the administrator when the administrator is absent.
- f) If the administrator is to be on leave for more than one month or has left prior to a replacement, the Department shall be notified of the name of the person appointed as acting administrator. The acting administrator shall have the qualifications of the administrator.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.12 Social Work Supervisors (Repealed)

- a) Social work supervisors shall have a Master's of Social Work degree from an accredited school of social work or an equivalent Master's Degree in a human services field, and two years of full-time supervised experience in a social work setting. At least one social work supervisor in the agency shall have two years of experience as a supervisor.
- b) If there is no full-time social work supervisor, the administrator shall in addition meet the qualifications for social work supervisor.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.13 Child Welfare Workers (Repealed)

Child welfare workers perform administrative duties, supervise placement of children, evaluate goals for placement, prepare progress reports, make foster home studies, make licensing or permit studies, recommend discharge or placement of children and keep required records. Child welfare workers shall have at least a Bachelor's Degree and shall be under the supervision of a qualified social work supervisor.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.14 Professional Staff (Repealed)

Professional staff such as social workers, psychologists, psychiatrists, physicians, dentists, teachers, and consultants, whether full-time or part-time employees or temporary consultants, must meet the respective

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licensing-and-registration-requirements-of-the-State-of-illinois:

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.15 Support Personnel (Repealed)

clerical-and-secretarial-services-shall-be-provided-to-maintain-correspondence, records, bookkeeping-and-files-in-current-and-good-order:

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.16 Volunteers (Repealed)

All-volunteers-shall-meet-the-requirements-for-the-tasks-they-perform-shall-be trained-for-the-tasks-they-perform-and-shall-be-under-the-supervision-of-an assigned-staff-supervisor:

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.17 Background Checks (Repealed)

a) The-governing-body-shall-ensure-that-all-prospective-and-current employees-submit-to-fingerprinting-(when-required)-authorize-a background-check-and-otherwise-meet-the-requirements-of-89-III-Adm-Code-385;-Background-Checks;

b) As-a-condition-of-issuance-or-renewal-of-a-license-by-the-Department, the-child-welfare-agency-shall-require-all-persons-subject-to background-checks-to-furnish-information-on-any-offenses-(other-than-a minor-traffic-violation)-for-which-they-have-been-convicted-in accordance-with-89-III-Adm-Code-385;

c) An-employee-may-begin-work-while-awaiting-the-results-of-the background-check---Such-employees-shall-not-be-left-alone-with children-until-the-results-of-the-initial-background-check-have-been received.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.18 Legal Safeguards of Children Served (Repealed)

The-agency-shall-have-written-verification-of-the-legal-status-for-all-children accepted-for-care-and-service---There-shall-be-written-financial-agreements between-the-child-welfare-agency--foster-family-parents-and-the-legal guardian-court-institution-or-another-agency-as-applicable-and-appropriate

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(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.19 Required Written Consents (Repealed)

a) Written-consents-from-legally-responsible-persons-(parent--court--or other--legal-custodian-or-guardian)-shall-be-obtained-for-certain-acts of-a-child-or-performance-of-certain-acts-on-his-behalf--including-but not-limited-to:

1) health--care--and--treatment---including--medical---surgical, psychiatric, and dental;

2) use-of-psychotropic-drugs;

3) religious--instruction--and/or--church--attendance-in-a-different faith;

4) work--programs--induction-into-the-armed-services--driving--a-car and-car-ownership;

5) extensive-visits--trips--or-excursions;

6) use-of-photographs--for-publicity-or-other-purposes; and

7) consent-to-marriage-for-children-under-age-18;

All-written-consents-shall-be-dated-and-limited-to-a-specific-period of-time:

c) Any-written-or-verbal-consent--or--authorization--given--by--the individuals--referenced--in--paragraph-a)--above--or-by-others--which conflicts-with-any-of-the-requirements-of-89-III-Adm-Code-4017--is not-valid;

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.20 Agency Responsibility (Repealed)

a) Each-child-served-by-the-agency-shall-at-all-times-have-a-designated child-welfare-worker-assigned:

b) Children-in-placement-shall-be-seen-by--the-assigned-child-welfare worker--at-least--monthly--for--the--first--three--months--immediately following-that-placement-and-at-least-every-three-months-thereafter:

c) Each-foster-family-shall-receive-in-person-supervision--consultation and-support-from-the-agency-at-least-quarterly:

d) Each-licensed-facility-supervised-by-the-child-welfare-agency-shall-be visited-by-a-child-welfare-worker-of-the-agency-at-least-semi-annually to-insure-that-the-standards-for-licensing-continue-to-be-met;

e) Major-decisions--regarding--a-child--such-as-accepting-for-placement, subsequent-placements, determination-of-or-change-in-the-service-plan, and-discharge-shall-be-reviewed-by-the-social-work-supervisor--prior to-implementation-and-when-needed---These-major-decisions-shall-result in-a-revised-service-agreement;

f) A-comprehensive-written-admission-study-shall-be-completed-within-30 days-of-admission-and-shall-include:

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- 1) child's name, verifications of date and place of birth, sex, race, legal status, including the legal status of the parent, present address, and religious affiliation;
 - 2) names, birth dates, places of birth, marital status, addresses, telephone numbers, and religious affiliation of parents;
 - 3) date and facility of placement and information concerning any special care or treatment provided to the child and his family; and
 - 4) reasons for, and the goal of, placement.
- g) The child and/or his parent or guardian shall be active participants to the extent possible in all decisions regarding the reasons for and the goal of placement and the service agreement.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.21 Interstate Placement of Children (Repealed)

An agency placing children outside the State of Illinois or receiving children from outside the State shall adhere to all rules and regulations of legal authorities pertaining to such placements and to the requirements of the Interstate Compact on the Placement of Children (Ill. Rev. Stat. 1979, ch. 237, par. 2601 et seq.) where applicable:

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.22 Health and Medical Services for Children (Repealed)

- a) The agency shall have written policies providing for medical, surgical, and dental care for children in placement. Such policies shall be formulated in consultation with physicians and dentists licensed to practice in the State of Illinois.
- b) Medical records on each child shall be maintained, including his medical history, parental or guardian consent for medical treatment, report of admission examination, all subsequent examinations, diagnoses, illnesses, immunizations, treatment, and discharge examination.
- c) A complete medical history shall include:
 - 1) current problems, medications, and handicaps; past health conditions such as diseases, allergies, and surgeries; immunizations; and dates and report of most recent physical examinations; and
 - 2) all available information pertaining to the health history of the child's family.
- d) Each child shall be examined by a physician within thirty days prior to placement. However, in emergency placements, the physical examination shall be scheduled within 5 days after placement and completed within

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- 15 days after placement; in all cases, each child shall be screened for communicable diseases within 72 hours of placement.
- e) Children shall be examined annually or more frequently if findings and medical opinion indicate need. Diagnosed medical problems shall be treated promptly.
- f) Dental examinations shall be given at least annually. Diagnosed dental defects shall receive prompt treatment.
- g) Immunizations and tests shall be administered as required by the Illinois Department of Public Health regulations or as recommended by a physician.
- h) Immunizations must be waived or modified for a child who, for medical reasons, should not be subject to an immunization or when there is a waiver on religious grounds.
- i) If treatment for any physical impairment which requires continuing or follow-up medical attention is needed, the parent, guardian or other facility shall be notified in writing.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.23 Records and Reports (Repealed)

- a) The agency shall maintain current records on each child receiving care or services, on agency personnel (including volunteers), and on each facility operating under its supervision.
- b) Records for each child shall include an admission study, legal documents, and agreements for care as required, and case recording reflective of the on-going care and treatment of the child.
- c) At the time a child is discharged from care, records shall include the reason for discharge, the legal status of the child, to whom the child is released or discharged, and any recommendation for the child's future care.
- d) Records shall be maintained on all employees and, in addition, for each volunteer who has responsibility for the care and supervision of children and shall document compliance with Section 401.17, Background Check. The records shall contain all pertinent information relative to character, suitability, qualifications for the position, health, three references, and history of employment for the last five years. Personnel records shall include the date of employment and the date and reasons for separation. These records shall be available for licensing review.
- e) The child welfare agency shall maintain a separate file of the results of the background check required by Section 401.17 and 401.18, Admin. Code 385, Background Checks.
- f) The child welfare agency shall maintain and submit reports on staff and volunteers to the Department on forms prescribed by the Department.
- 1) An individual report on each new employee (including owner,

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operator or director) shall be filed with the Department, a copy of this report shall be kept at the agency.

2) All staff changes shall be reported to the Department within two business days after beginning employment. Such reports shall be accompanied by complete, signed authorizations for background checks, as required by 89 Ill. Adm. Code 3057 Background Checks.

3) Copies of documentation of medical information, verification of educational achievement, and character references of employees shall be provided upon request by the Department.

g) The child welfare agency shall maintain in its official records the major decisions and policies of the governing body or board.

h) Financial records of operations shall be maintained as part of the permanent records of the agency and shall include a copy of the annual audit.

i) The child welfare agency shall enter in the child's record and orally report immediately to the child's parent, guardian, and the Department any serious occurrences involving children. If the agency is unable to contact the parent, guardian or Department immediately, it shall document this fact in the child's record. These occurrences include serious accident or injury requiring extensive medical care or hospitalization, death, arrest, alleged abuse or neglect, major fire or other emergency situations, movement of the child welfare agency which affects any child or children, personnel or the conduct of the agency. Oral reports shall be confirmed in writing within two working days of the occurrence.

j) Records shall be kept in safer locked places.

k) Authorized Department licensing representatives or other Department representatives who have the Director's written authorization shall have access to the records and reports. All persons who have access to the records and reports shall respect their confidential nature.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.24 Records Retention (Repealed)

Personnel, general and financial records required of the child welfare agency shall be maintained for five years. Children's records shall be maintained for at least five years after the child's majority.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.25 Agency Supervised Foster Family Homes, Group Homes and Day Care and Night Care Homes (Repealed)

a) Foster family homes, group homes, and day care and night care homes operated and supervised by a child welfare agency shall be licensed

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according to the standards prescribed and published by the Department for licensing such homes.

b) The agency shall submit an application for a license for each child care facility operated by it on forms provided by the Department.

c) Recommendation for the licensure of family homes operated by a child welfare agency may be made to the Department by the agency and in accordance with the standards prescribed for such facilities.

d) Upon receipt of an application for a group home license, the Department's licensing staff shall conduct a license study and provide the group home is in compliance with group home licensing standards, recommend licensure.

e) The agency operating any child care facility shall be responsible for its conduct in accordance with the licensing standards prescribed by the Department.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 401.26 Severability of This Part (Repealed)

If any court of competent jurisdiction finds that any rule, clause, phrase, or provision of this part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this part.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

SUBPART A: INTRODUCTION AND DEFINITIONS

Section 401.30 Purpose

a) The purpose of this Part is to prescribe the standards for licensure as a child welfare agency and to describe how to apply for a child welfare agency license. This Part also prescribes the duties of a child welfare agency to monitor and supervise child care facilities under its supervisory authority.

b) The licensing standards set forth in this Part are applicable to child welfare agencies as defined in the Child Care Act of 1969 (225 ILCS 10/2.08). Granting a license to a child welfare agency does not guarantee a contract with the State of Illinois or the Department of Children and Family Services.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.40 Definitions

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"Adequate assets" means the child welfare agency has sufficient liquid assets in reserve or has a line of credit independent of Department contracts which would allow it to provide continuous agency operations and provide services such as staff, taxes, rent, utilities, and supplies for a period of at least 30 days.

"Administrative order of closure" means a severe administrative sanction, approved by the Director of the Department of Children and Family Services, to close immediately a licensed child care facility prior to revocation of the facility's license. An administrative order of closure is issued only when continued operation of the child care facility during the license revocation process poses serious risks to children's health, safety, morals, or welfare.

"Age appropriate safety restraint" means, for a child under four years of age, a child restraint system (infant carrier, infant/toddler seat, or convertible safety seat) which meets the standards of the United States Department of Transportation designed to restrain, seat or position children. For a child four years of age or older, an age-appropriate safety restraint means a child restraint system or seat belt (lap belt or lap-shoulder belt combination).

"Authorized representative of the governing body" means the person authorized by formal action at a meeting of the Board of Directors to act on behalf of the child welfare agency and sign the license application and other such documents, on behalf of the governing body. Such authorization shall be in writing on agency letterhead, submitted to the Department licensing representative, and signed by the president or chairperson of the Board of Directors and the secretary of the Board of Directors.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI), for comparison to their criminal history records, as appropriate, or via a LEADS check of persons ages 13 through 17; and
- a check of the Child Abuse and Neglect Tracking System (CANTS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Chief fiscal officer" means the staff position with primary responsibility for the receipt, distribution and accounting for all

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financial transactions of the agency.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in this Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child welfare agency" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for the placement of the child or children in foster family homes or other facilities for child care, apart from the custody of the child's or children's parents. The term "child welfare agency" includes all agencies established and maintained by a municipality or other political subdivision of the State of Illinois to protect, guard, train or care for children outside their own homes, but does not include any circuit court or duly appointed juvenile probation officer or youth counselor of the court, who receives and places children under an order of the court. [225 ILCS 10/2.08]

"Conditional license" means a nonrenewable license for a period not to exceed six months which may be granted to a child care facility when the facility has agreed to a corrective plan to amend identified deficiencies and bring the facility into reasonable compliance with all licensing standards. Conditional licenses may be issued with the approval of the Department only where no threat to the health, safety, morals or welfare of the children served exists. Any other license held by the facility shall be revoked when the conditional license is issued.

"Corrective plan" means a written plan approved by the Department's regional licensing administrator which identifies deficiencies in a child care facility's operations and which allows the facility a maximum of six months to correct the identified deficiencies and come into reasonable compliance with all applicable licensing standards.

"Deemed status" means the Department has approved the programs of a child welfare agency as in compliance with the requirements of this Part because these programs:

- have received full accreditation status from the Council on

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Accreditation of Services for Families and Children; and

- during the past four years, there have been no substantiated licensing complaints which affect the health, safety, morals, or welfare of children served by these accredited programs.

"Department" means the Illinois Department of Children and Family Services. [225 ILCS 10/2.02]

"Full license" means the agency is operating under a current child welfare agency license rather than a permit, a provisional license, a conditional license, or a license which has been revoked or which has expired when the agency failed to file a timely and sufficient application for license renewal.

"Governing body" means all members of the board of directors of a corporation.

"Guardian" means the guardian of the person of a minor. [225 ILCS 10/2.03]

"Immediate family member" means a person's spouse, son, daughter, mother, father, sibling, brother- or sister-in-law, or other legal dependent.

"Inadequate assets" means the child welfare agency has less than 30 days of operating expenses available to them in liquid assets as required by the definition of adequate assets in this Section.

"Initial application for license" means the first application for licensure as a child welfare agency submitted by the individual, organization, or other legal entity.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, organizations, or other legal entities who have applied for a license from the Department of Children and Family Services.

"Licensing representative" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

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"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"New application for license" means a license is sought to operate a child welfare agency when:

- the applicant has applied previously for a child welfare agency license and withdrew the license application before a decision was made on the application for license; or
- the applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license; or
- the applicant had been licensed previously as a child welfare agency, but the Department revoked or refused to renew the license.

"Permit" means a one-time only document issued by the Department of Children and Family Services to allow the license applicant to become eligible for an initial license. Permits may be for a six month period, except permits granted to foster family homes and day care homes are limited to a maximum of two months.

"Petty offense" means any offense for which a sentence to a fine only is provided. (Section 5-1-17 of the Unified Code of Corrections [730 ILCS 5/5-1-17])

"Provisional license" means a license issued for a period not to exceed two years to allow a licensed child welfare agency to demonstrate the ability to operate a business in a responsible fashion. During the provisional license period, the Department may exercise more stringent oversight or place more stringent requirements on the child welfare agency.

"Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antianxiety, behavioral modification or behavioral management purposes is listed in the AHA Drug Evaluations, latest edition, or Physician's Desk Reference, latest edition, or which are administered for any of these purposes. (Section 1-121.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121.1])

"Refusal to renew a license" means the formal decision of the Department to decline to issue a succeeding license, although the licensee has submitted a timely and sufficient application for license

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renewal, to the holder of a child care facility license or permit which has expired or is about to expire.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children receiving care in a licensed child care facility outside the visual or auditory supervision of facility staff.

"Reputable character" means there is satisfactory evidence that the moral character of the applicant is trustworthy.

"Responsible" means trustworthy performance of expected duties in accordance with established professional standards, State and federal law, and the rules of the Department of Children and Family Services.

"Revocation" means the termination of a full license, provisional license, or permit to operate a child care facility by a formal action of the Department. License revocations shall be conducted in accordance with Section 8 or 8.1 of the Child Care Act of 1969 [225 ILCS 10/8 and 8.1].

"Risk management plan" means a document developed in accordance with Appendix D of this Part that outlines the process for identifying and analyzing loss exposures, examining alternative risk control methods, and making and carrying out decisions that will minimize the adverse effects of accidental losses.

"Timely and sufficient application for license renewal" means the child welfare agency submitted the application for renewal of the license at least 90 days before the license was due to expire, the application was complete, dated, and signed by an authorized party, and the materials required by Section 401.140 were attached to the application for license renewal. License renewal applications for foster family homes or day care homes under the supervision of the child welfare agency are considered timely if the application was returned to the agency no later than 30 days after the application was mailed to the licensee.

"Valid license" means a license which has not been revoked or expired, or which would have expired but the child welfare agency submitted a timely and sufficient application for license renewal and the Department has not yet rendered a decision on the application, and the facility has not been issued an administrative order of closure.

"Voluntary surrender of license" means that, in writing, the licensee has offered and the Department has accepted the licensee's offer to give up a valid license of his, her or its own free will. The

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Department is not required to accept the offer of the license and, in the Department's sole discretion, may decline to accept the license.

(Source: Added at 21 Ill. Reg. _____, effective _____)

SUBPART B: PERMITS AND LICENSES

Section 401.100 Application for License

a) The application for license as a child welfare agency shall be completed by the officers of the governing body of the child welfare agency, or its authorized representative, on forms prescribed and furnished by the Department.

b) For the initial application for a license to be complete, the following shall be attached to the application:

1) articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State and, if a not-for-profit corporation, a copy of the Internal Revenue Service ruling on the agency's exemption status from Federal income tax and registration with the Charitable Trust Bureau of the Attorney General's office (if applicable);

2) a mission statement or statement of purpose including services to be provided and the types of child care facilities to be operated and supervised by the agency;

3) a list of owners, officers, board members, principal shareholders owning more than 5% of the stock of the corporation and each person's attestation that he or she has not been convicted of a felony or indicated as a perpetrator of child abuse or child neglect, as defined in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect. This includes any or all of the above persons who reside outside the State of Illinois;

4) a listing of standing committees of the governing body;

5) proposed operating budget for the first two years of operation;

6) range of services to be provided within the first two years of operation; and

7) a comprehensive staffing plan which includes job descriptions and the qualifications of the staff for all child welfare programs to be provided by the agency. If the child welfare agency operates within a multi-service agency, those staff positions which perform no functions for the child welfare agency do not need to be included in the staffing plan. If the child welfare agency intends to operate branch offices, the address, phone number and staffing plan for each of the branch offices is to be included in the initial application (if known) or reported to the Department within ten days after the location for a branch office is secured.

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c) In addition, the license applicant shall have the following items available for review when the licensing representative visits the agency headquarters.

1) A list of current employees of the child welfare agency and persons to whom the agency has made a commitment to hire; and

A) certified transcripts of each employee's educational credentials (if obtained from a foreign school or university, the credentials must be translated into English and include a statement of equivalency in the United States educational system);

B) verification of prior work history, when the work history is required to qualify for the current position;

C) copy of current professional license or registration (if required. See Appendix G for a list of professionals commonly used by a licensed child welfare agency who must be licensed or registered.); and

D) if the individual is subject to the background check requirements of 89 Ill. Adm. Code 385, Background Checks, each employee's complete, signed authorization to conduct a background check.

2) The agency's written personnel policies, including written compensation policies and salary levels.

3) The agency's written service delivery policies.

4) The agency's risk management plan developed in accordance with Appendix D of this Part.

5) The agency's documentation of current public liability insurance as required by Section 401.220(g).

6) The agency's code of ethics which has been adopted by the governing body and which must be at least as stringent as the Code of Ethics for Child Welfare Professionals published by the Department of Children and Family Services.

d) If the corporate status of the child welfare agency changes, the new corporate entity must file an initial application for license under the new corporation.

e) A new application shall be filed when:

1) an application for license has been withdrawn before a decision was made on the application and the agency seeks to reapply; or
2) the applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license, and any waiting period agreed to when the voluntary surrender was accepted has expired; or

3) the applicant had been licensed as a child welfare agency, but the Department revoked or refused to renew the license and the requirements of subsection (f) of this Section have been fulfilled.

f) A new application may be submitted at any time when a license, permit or application has been voluntarily surrendered or withdrawn by the applicant unless the applicant has signed an agreement with the

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Department not to reapply for a license for a specified period of time. Once an investigation of the facility has been commenced, the license may be voluntarily surrendered only with the signed, written agreement of the regional licensing administrator on the form prescribed in Appendix F.

g) If the Department has revoked or refused to renew the license of a child welfare agency and the agency seeks to reapply for a license, it may do so if at least 12 months have passed since the effective date of the revocation or refusal to renew. If a new license is granted to the applicant, the Department shall issue a provisional license to the applicant for a period not to exceed two years. The denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to the Child Care Act of 1969, or maintaining a facility which adheres to such standards and rules. [225 ILCS 10/6(c)]

h) The applicant shall submit an original and one copy of the application for license and all required documentation.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.110 Provisions Pertaining to Permits

a) A permit shall be issued before a provisional license is granted, but shall not be issued prior to the following:

1) completion of the application for license and submission of the original and one copy of the application and all required supporting documentation to the Department;

2) employment of a qualified executive director who has passed the background check requirements of 89 Ill. Adm. Code 385, Background Checks;

3) development of a projected staffing plan indicating the time table by which qualified staff shall be hired;

4) establishment of procedures and forms for required records and reports in Sections 401.260 and 401.270;

5) submission of a written plan which indicates how requirements for a license shall be met within the permit period;

6) demonstration of financial capability through a projected budget for at least the next two years. Letters of commitment must be attached for any projected grant or contract;

7) submission of a risk management plan as outlined in Appendix D, Minimum Requirements for a Risk Management Plan, of this Part; and

8) documentation of current public liability insurance as required by Section 401.220(g).

b) A permit shall not be issued retroactively.

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- c) The permit shall not be renewable.
- d) The permit shall not be transferred or transmitted to another legal entity.
- e) The permit shall not be valid for a name or address different from the name and address shown on the issued permit.
- f) The child welfare agency shall adhere to the provisions specified on the permit.
- g) A current permit shall be on display at the agency headquarters at all times.
- h) A provisional license shall be issued any time within the six months period covered by the permit provided the facility achieves and maintains compliance with the Department's licensing standards.
- i) There shall be no fee or charge for the permit.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.120 Provisional Licenses

- a) The Department may restrict the operation of the child welfare agency by attaching provisions to the license, such as those identified in subsection (c) of this Section. Such provisional licenses shall be routinely issued for the first two years. In addition, a provisional license also may be issued when a former license holder seeks to reapply after the license was voluntarily surrendered or after the Department revoked or refused to renew the former license.
- b) Good cause for issuing a provisional license to a former or current holder of a child welfare agency license is evidenced by, but not limited to:

- 1) an excessive number of indicated child abuse or neglect reports involving foster family, relative, day care, and group homes supervised by the child welfare agency; or
- 2) lack of financial responsibility as evidenced by maintaining inadequate assets or by late payment (more than ten days after the scheduled payment date) of foster parents, tax obligations, bills or other evidence of financial instability; or
- 3) inadequate or missing records or reports, as required by this Part; or
- 4) missing case reviews or court hearings on a regular basis or coming to case reviews or court hearings unprepared to present the case on a regular basis; or
- 5) excessive turnover (40% or more turnover within a one-year period) in the governing body or staff; or
- 6) failure to supervise foster family, relative, day care, and group homes, as required by Department of Children and Family Services rules;
- 7) failure to promptly process foster parent licensing applications, provide adequate training of foster parents and adoptive parents,

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- or provide information to foster parents regarding policy and procedures applicable to foster parents and foster children;
- 8) failure to recommend foster family and day care home licenses for renewal before the expiration date of the license when the licensee has made a timely and sufficient application for license renewal;
- 9) failure to submit an annual implementation plan pursuant to the Foster Parent Law [20 ILCS 505/7.2] and to implement the plan as submitted; or
- 10) other good cause when supported by adequate documentation that the agency is failing to operate in the interest of its clients or the general public.
- c) The child welfare agency shall adhere to the provisions specified on the license which may include, but are not limited to:
- 1) establishing specific supervisor/child welfare staff ratios that the child welfare agency must maintain; or
 - 2) requiring at least six bi-monthly meetings of the Board of Directors and greater involvement from the Board of Directors in agency operations; or
 - 3) requiring oversight by a certified public auditor who provides periodic reports to the Department; or
 - 4) requiring other supportive or corrective measures as deemed necessary in writing by the Department.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.130 Provisions Pertaining to Licenses

- a) A full child welfare agency license is valid for four years unless revoked by the Department or voluntarily surrendered by the licensee. Provisional licenses are valid for two years.
- b) A license shall not be transferred or transmitted to another legal entity.
- c) A license shall not be valid for a name or address other than the name and address shown on the license.
- d) The current license shall be displayed at the agency headquarters at all times.
- e) The licensee shall adhere to any and all provisions of the license.
- f) There shall be no fee or charge for the license.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.140 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to the child welfare agency by the Department six months prior to the expiration

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date of the license. When the application for license renewal is submitted to the Department, the child welfare agency shall submit a complete listing of the names and addresses of all licensed and license-exempt child care facilities supervised by the child welfare agency and of any pending applications for license as a foster family or day care home which will be supervised by the child welfare agency. The original of the completed application, along with the listing of child care facilities supervised by the agency, and one copy of all materials shall be submitted to the Department no later than three months before the date of the expiration of the child welfare agency's license.

c) When a licensee has made timely and sufficient application for renewal of a license and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect until the final Department decision has been made. [225 ILCS 10/5(d)]

d) After receipt of the application for license renewal, the Department shall conduct a license study which may include an unannounced visit if conducted within normal business hours, in order to determine that the child welfare agency continues to meet licensing standards. The licensing study shall include an examination of the premises and records of the child welfare agency to determine the degree of compliance with these standards and shall include:

1) random surveys of parents or legal guardians who are consumers of the child welfare agency's services to assess the quality of care given and to determine if the child welfare agency is in compliance with the Foster Parent Law [20 ILCS 520];

2) a review of a representative sample of child care facilities supervised by the child welfare agency, which may include site visits to these facilities;

3) a review of unusual incident reports, child abuse/neglect reports, financial and payment records, and other agency performance indicators to evaluate the quality of care provided through the agency;

4) interviews of child welfare agency employees, foster parents, biological parents, children receiving care through the licensed child welfare agency, and other clients that receive services from the child welfare agency; and

5) a review of the records, staffing, and operations of any branch offices operated by the child welfare agency.

e) The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. If the Department is satisfied that the facility continues to be in compliance with minimum standards which it prescribes and publishes, it shall renew the license to operate the facility. [225 ILCS 10/6] A copy of the licensing study will be made available to the license applicant upon payment of all copying

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costs.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.150 Acceptance of Accreditation in Lieu of License Renewal Study

a) When a program of the child welfare agency is fully accredited by the Council on Accreditation of Services for Families and Children, 520 Eighth Avenue, Suite 2202B, New York, New York 10018 and there have been no substantiated licensing complaints which affect the health, safety, morals, or welfare of children served by that program for the last four years, that program of the child welfare agency is deemed to be in compliance with the program requirements of this Part. The license renewal study need not evaluate program elements for child welfare programs which are fully accredited by the Council on Accreditation of Services for Families and Children.

b) The Department shall verify in writing with the Council on Accreditation of Services for Families and Children that the program's accreditation continues to be in good standing and shall conduct annual monitoring visits to verify the continued compliance of the child welfare agency with the requirements of this Part.

c) If a licensing complaint is substantiated against an accredited child welfare agency, the Department licensing representative shall notify in writing the Council on Accreditation of Services for Families and Children of the substantiated complaint. The child welfare agency shall receive a copy of this notice.

d) If a substantiated licensing complaint may affect the health, safety, morals, or welfare of the children served by the child welfare program, the program shall be removed from "deemed status" and a full license study conducted.

e) Nothing in this Section is intended to preclude a complete licensing study of programs operated by the child welfare agency which have not been accredited by the Council on Accreditation of Services for Families and Children.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.160 Voluntary Surrender of License

a) At any time, a licensee may offer to voluntarily surrender a valid license. The licensee must verify whether:

1) the Department is investigating the child welfare agency for any licensing complaint or report of suspected abuse or neglect involving the agency;

2) litigation is pending between the child welfare agency and the Department; or

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- 3) the child welfare agency suspects that it or facilities supervised by it are under investigation by any state agency of any state, their respective inspectors general, or any local, State or federal law enforcement agency.
- b) The child welfare agency shall attach to the offer of voluntary surrender a complete listing of the names and addresses of all licensed child care facilities supervised by it, of any pending license applications, and of any license exempt day care homes, relative care homes, independent living facilities, or other programs operated by the child welfare agency.

c) Before accepting a voluntary surrender of license, the regional licensing administrator shall review the listing of the names and addresses of the facilities and programs supervised by the child welfare agency to determine whether it is complete and correct. In addition, the regional licensing administrator shall determine whether:

- 1) the Department is investigating the child welfare agency for any licensing complaint or report of suspected abuse or neglect involving the agency;
- 2) litigation is pending between the child welfare agency and the Department; and
- 3) the Department has been notified by another state agency, their respective inspectors general, or any local, State or federal law enforcement agency that the child welfare agency is under investigation.

d) The Department may discharge its obligation to determine whether an investigation is pending and whether the Department has received notice of an investigation by the DCFS-Office of the Inspector General or any local, State or federal law enforcement agency, by examining local licensing records, reviewing the voluntary offer of surrender signed by the child welfare agency, checking with the Central Office of Licensing, the State Central Register, the DCFS-Office of Inspector General, the Office of Legal Services, and the Office of Internal Audits.

e) If the licensee has verified and the Department has determined that the child welfare agency is not under investigation and not engaged in litigation with the Department, a licensing representative may, but is not required to, accept the offered voluntary surrender of the license. Such voluntary surrenders must be executed on the form prescribed in Appendix E of this Part.

f) If the licensee has verified and the Department has determined that the child welfare agency is under investigation or is engaged in litigation against the Department, only a DCFS licensing administrator may, but is not required to, accept the offered voluntary surrender of the license. Such voluntary surrenders must be executed on the form prescribed in Appendix F of this Part.

g) If, at any time after the acceptance of a voluntary surrender of license, the Department discovers that the child welfare agency knew

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or should have known that it was under investigation at the time it offered to surrender its license and failed to disclose the information to the Department, the Department at its option may set aside its acceptance of the surrender and proceed to take appropriate action against the licensee and the license, including, but not limited to, the revocation of the license or refusal to renew the license.

(Source: Added at 21 Ill. Reg. _____, effective _____)

SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

Section 401.200 Incorporation

The child welfare agency shall be incorporated, either for profit or not for profit. The Board of Directors of the corporation shall consist of at least nine members, at least five of whom shall be Illinois residents. A copy of the certificate and articles of incorporation shall be filed with the Department at the time of application. A copy of any later amendment to the articles of incorporation or a copy of a certificate of dissolution shall be filed with the Department no later than 30 days after it occurs. If the child welfare agency is incorporated as a not-for-profit agency, the agency also must submit proof of the Internal Revenue Service ruling on its not-for-profit status and proof whether it has registered as a charitable organization with the Illinois Attorney General. The child welfare agency shall notify the Department in writing of any change in its not-for-profit or charitable organization status within 30 days after notice from the Internal Revenue Service or Attorney General, respectively.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.210 Composition and Responsibilities of the Governing Body

a) The governing body of a child welfare agency shall be all members of the Board of Directors of the corporation. The Board of Directors shall be composed of persons who reflect a diversity of strengths and perspectives, bring appropriate skills and experience to the Board of Directors, and reflect the community being served.

b) Each member of the governing body of the child welfare agency and principal shareholders (owning 5% or more of the corporate stock) shall be of reputable and responsible character who shall certify that they have never been convicted of a felony or indicated as a perpetrator in a child abuse or neglect report, as defined in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect.

c) The governing body may create an executive committee or a child welfare committee that has been delegated limited decisionmaking

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authority. The executive committee may act on behalf of the governing body in emergency matters.

d) The governing body shall:

- 1) establish written by-laws which govern the major operations of the agency and which outline the duties of the officers of the board of directors and committees to be established by the board of directors;
- 2) set long range goals for the agency;
- 3) if incorporated as a not-for-profit corporation, adopt a conflict of interest policy which requires, at a minimum:
 - A) that no member of the board of directors may derive or appear to derive any personal profit or gain, directly or indirectly, by reason of his or her membership on the board of directors or because of services provided to the board;
 - B) that each board member must disclose to the board any personal interest which he or she may have in any current or potential matter before the board and refrain from participating in any decision on such matters;
 - C) that no member of any employee's immediate family may serve on the board of directors for the child welfare agency and no member of any board member's immediate family may become an employee or independent contractor of the agency; and
 - D) that no board member may receive financial compensation from State funds for attending board meetings, including an allowance or reimbursement for out-of-pocket expenses associated with attending the meeting.
- 4) insure that the child welfare agency operates at all times with a qualified, full-time executive director who, by official written notice, is made known to the Department. The governing body shall:
 - A) approve a written job description for the agency executive director which delineates the executive director's responsibilities and authority and the governing body's expectations of the agency executive director;
 - B) review and authorize all compensation for the agency executive director, including salary, allowances, memberships or other benefits;
 - C) evaluate the agency executive director in writing at least annually;
- 5) insure that an adequate process is in place for recruiting, hiring, and maintaining qualified child welfare supervisors and other staff required by this Part;
- 6) hold at least quarterly meetings, unless the agency holds a provisional license, thus requiring a minimum of bi-monthly meetings of the board of directors;
- 7) keep written records or minutes of all board meetings reflecting official actions of the board which shall contain, at a minimum, the date of each board meeting, the persons who were in

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attendance, the issues discussed in the meeting, any committee reports made to the board, the decisions made and actions taken. Such minutes shall be available for review by the Department's licensing representative, upon request;

- 8) officially notify the Department in writing within 30 days after a change in the executive director of the child welfare agency or of any major changes in the corporate structure, including, but not limited to:
 - A) changes in the articles of incorporation or by-laws;
 - B) changes in the not-for-profit status as determined by the Internal Revenue Service (if applicable) or its charitable organization status as determined by the Illinois Attorney General;
 - C) addition of any principal shareholder owning at least 5% of the stock of the corporation; or
 - D) changes in the governing body or its officers;
- 9) establish written policies of the child welfare agency which shall be made available to all board members and employees, including services to be provided by the agency, admissions, personnel policies, fiscal operations, care of children, and other policies as needed to direct the agency, such as family visitation and community contacts with children;
- 10) provide and maintain permanent offices accessible to the public and appropriate for the administrative program and supportive services. These offices, including all branch offices, shall be staffed during the business hours established by the agency, shall be equipped with telephones, and shall have a permanent mailing address;
- 11) maintain and keep all records and documents required by this Part in the State of Illinois where they shall be readily available for review by authorized persons;
- 12) insure fidelity bonding of fiscally responsible officers and employees against breach of fiduciary duty or the loss of monies, securities, or other property which the agency may sustain through any fraudulent or dishonest act committed by an officer or employee acting alone or in collusion with others. These employees must be bonded regardless of whether the employee is elected or appointed or whether the employee is compensated by salary;
- 13) insure that the child welfare agency maintains adequate assets, as defined in Section 401.40, for responsible fiscal operation of the agency; and
- 14) insure that all persons working directly with children are of reputable and responsible character, as verified by their employment history of at least the past three years, the status of any professional license they hold, and completion of the background checks required by 89 Ill. Adm. Code 385, Background Checks.

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- f) Child welfare agencies fully licensed as of the effective date of this Section have one year from the effective date of this Section to attain compliance with the requirements of this Section.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.220 Organization and Administration

- a) The members of the governing body are responsible for maintaining the standards set forth in this Part. The governing body may delegate responsibility for day-to-day compliance with these standards to the agency executive director.

- b) The Office of Legal Services, Department of Children and Family Services, 100 W. Randolph, Chicago, Illinois 60601 shall be notified in writing within ten business days after receipt of any notice of legal action which may affect the child welfare operations of the agency. The notice shall include a copy of all complaints, notices, demands, orders and other relevant materials received by the agency. A copy of all materials shall be forwarded to the Central Office of Licensing.

- c) A complete, current set of licensing standards for child welfare agencies and all types of child care facilities supervised by the child welfare agency shall be available at all times in an area that is accessible to agency employees.

- d) The executive director and child welfare supervisors and staff shall have a working knowledge of the Child Care Act of 1969 [225 ILCS 10], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505], the Juvenile Court Act of 1987 [705 ILCS 405], the Adoption Act [750 ILCS 50], and the Foster Parent Law [20 ILCS 520].

- e) Employees of a child welfare agency are mandated to report suspected child abuse or neglect directly to the State Central Register and are required to acknowledge their status as mandated reporters by signing a form prescribed by the Department when they begin their employment. Such reports shall be made immediately to the State Central Register as required by the Abused and Neglected Child Reporting Act. The telephone number for reporting is 800-252-2873.

- f) The child welfare agency shall develop a risk management plan, as described in Appendix D of this Part, that identifies potential financial and operational risks, specifies ways to reduce or eliminate the risks, and establishes procedures to be followed in an emergency or crisis.

- g) The child welfare agency shall carry public liability insurance in the single limit minimum amount of \$300,000 per occurrence.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.230 Finances

- a) The agency shall maintain a degree of financial solvency that insures adequate care of the children for whom it has assumed responsibility. An agency is considered insolvent if its financial condition is such that the sum of its debts is greater than all of its property, at a fair valuation, exclusive of property transferred, concealed or removed with intent to hinder, delay or defraud its creditors. (This definition of "insolvency" is based on the definition contained in the United States Bankruptcy Code of 1978, 11 U.S.C. 101(26).)
- b) The agency shall designate a chief fiscal officer who is responsible for developing an annual operating budget. The executive director shall submit the annual operating budget to the board of directors for its use in monitoring the financial operations of the agency throughout the year. The board shall review and vote whether to accept, modify, or reject the proposed annual operating budget. A copy of the approved annual operating budget shall be appended to the minutes of the meeting.

- c) At least once per quarter, a report shall be submitted comparing budgeted revenues and expenses with actual revenues and expenses to the board of directors for their review and acceptance, request for modification, or rejection as insufficient.

- d) The agency shall maintain fiscal records which shall include:

- 1) current and projected operating budget;
- 2) quarterly analysis of projected versus actual revenues and expenses;

- 3) records of a corrective plan to reduce the agency's deficit, if any, and progress toward complying with that plan; and

- 4) financial records annually audited and certified by public accountants not otherwise affiliated with the agency.

- e) The above records shall be maintained and kept in the State of Illinois where they shall be readily available for review by authorized representatives of the Department.

- f) A certified copy of the agency's annual audit as performed by an independent auditor shall be submitted to authorized Department staff upon request. In addition, the agency shall sign a written consent which authorizes Department staff to access the work papers of the independent auditor to verify the findings of the auditor and determine how the responses to the financial analysis required by Appendix C of this Part were developed.

- g) The agency shall submit the original financial analysis to the authorized licensing representative and a copy to the Central Office of Licensing on the form prescribed in Appendix C of this Part. The financial analysis shall be submitted to the Department within 180 days after the end of the agency's fiscal year. The prescribed form shall be completed and signed by the auditor who performed the agency's annual audit, the chief fiscal officer, and the head of the governing body.

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(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.240 Background Checks

The agency shall have appropriate personnel procedures in place to insure that all persons subject to the background checks required by 89 Ill. Adm. Code 385, Background Checks, authorize such checks and submit to fingerprinting (when required). The agency shall insure that only designated personnel review the background check information and make decisions about the suitability of the individual for licensure or employment. All background check information shall be maintained separately in a confidential file, apart from the employee's personnel records.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.250 Required Reporting to the Department**a) Staff and Volunteers**

The child welfare agency shall maintain and submit reports on staff and volunteers to the Department on forms prescribed by the Department:

- 1) An individual report on each new employee or member of the governing body (including the owner, operator, principal shareholder owning at least 5% of the stock of the corporation or director) shall be filed with the Department within 30 days after the employment of the new employee or appointment of a new member of the governing body. A copy of this report shall be kept at the agency.

- 2) Copies of documentation of verification of educational achievement and documentation of prior work history (when required to qualify for the current position).

b) License Status of Child Care Facilities Supervised by the Child Welfare Agency

The child welfare agency shall immediately report in writing to the Department licensing office when the license status changes for a foster family home or day care home supervised by the agency. Such changes in license status may include, but are not limited to:

- 1) failure or refusal to renew the license;
- 2) revocation or voluntary surrender of the license;
- 3) change in the status of licensees (death, divorce or separation of a husband and wife, change in not-for-profit status);
- 4) change of address of the licensee;
- 5) change in license capacity;
- 6) transfer of license supervision to another supervising child welfare agency; or
- 7) foster or adoptive family moves out-of-state.

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c) Unusual Incident Reports**1) Involving Children**

The governing body or its designee shall orally report any unusual incidents involving children at the earliest reasonable time, but no later than the next business day after the incident, to the child's parent or guardian, caseworker (if the Department is legally responsible for the child) and the Department licensing representative. If the agency is unable to contact the parent or guardian and the Department immediately, it shall document this fact in the child's record. Unusual incidents include accident or injury requiring hospitalization, death, arrest, or other emergency situations. Oral reports shall be confirmed in writing within two business days after the occurrence.

- 2) Involving Employees, Foster Parents, or Relative Caregivers. The governing body or its designee shall report to the Department licensing representative any work or service related unusual incident which results in the death, accident or injury resulting in hospitalization, or alleged commission of a felony involving any child welfare agency employee, foster parent, day care provider, or relative caregiver. A verbal report shall be made within 24 hours after the occurrence and shall be confirmed in writing within two business days after the occurrence.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.260 Required Record Keeping

- a) The child welfare agency shall maintain current records on each child receiving care or services, on agency personnel (refer to Section 401.370, Personnel Records), and on each facility operating under its supervision.

- b) The child welfare agency shall maintain licensing records on all foster family and day care homes under its licensing supervision. The child welfare agency shall insure that facilities operating under its supervision maintain all the records required by the appropriate licensing standards for the facility.

- c) Records for each child shall include an admission study, legal documents and agreements for care, as required, and case recording which reflects the on-going placement supervision, service planning, care and treatment of the child.

- d) When a child is discharged from the agency's care, records shall include the reason for discharge, the legal status of the child, to whom the child is discharged, family reunification or after-care services to be provided, and any recommendation for the child's future care.

- e) Records shall be kept in safe, locked places within the State of

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Illinois. Access to such records shall be limited to authorized persons only.

- f) Department licensing representatives shall have access to all records and reports pertaining to programs operated by the child welfare agency, even if the Department is not legally responsible for the children involved in those programs. All persons who have access to the records and reports shall respect their confidential nature.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.270 Records Retention

- a) General and financial records required of the child welfare agency shall be maintained for at least five years.
- b) Personnel records shall be retained for at least five years after termination of the person's employment.
- c) Licensing records shall be maintained for at least five years after termination of the foster family or day care home license.
- d) Child case records shall be maintained for five years after the child attains the age of 21. At least five years after the child attains the age of 21, the record may be purged so that only family, medical, and biographical information is retained. The family, medical, and biographical information shall be maintained for at least 15 years after the child attains the age of 21, unless the child has been adopted. If the child has been adopted, the family, medical, and biographical information on the child shall be retained for at least 99 years after the child attains the age of 21.

- e) When an agency license is revoked, the Department refuses to renew the license, or for any other reason the agency ceases operations, the child welfare agency shall provide the Department with the original or a complete copy of all child case records and licensing records for the children and families it has served and for the foster family and day care homes which had been under its supervision.

(Source: Added at 21 Ill. Reg. _____, effective _____)

SUBPART D: PERSONNEL REQUIREMENTS

Section 401.300 The Executive Director

- a) The child welfare agency shall hire an executive director who shall be a full-time employee designated by the governing body to carry out the day-to-day management of the child welfare agency and the policies and procedures established by the governing body. When the child welfare agency operates within a larger, multi-service agency, the executive director responsible for the child welfare agency need not be the

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chief executive officer for the multi-service agency.

The executive director shall have:

- 1) a Master's of Social Work degree from an accredited school of social work and three years' work experience in social work administration; or
- 2) a Master's Degree in a human services field and five years work experience in human services administration.
- c) If the executive director also serves as the child welfare supervisor, the executive director also must meet the qualifications in Section 401.310 for the child welfare supervisor.
- d) All persons currently serving as executive director who have served in that capacity for a minimum of five years immediately preceding the adoption of this Section shall continue to be deemed qualified for their position as executive director.
- e) A qualified supervisor or manager shall be appointed to act on behalf of the executive director when the executive director is absent and cannot be reached in the event of an emergency.
- f) If the executive director is to be on leave for more than one month or has left prior to a replacement, the Department shall be notified within ten business days of the name of the person appointed as acting executive director. The acting executive director shall have the qualifications required of an executive director as specified in this Section.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.310 Child Welfare Supervisors

Child welfare supervisors shall have a Master's of Social Work degree from an accredited school of social work or an equivalent Master's Degree in a human services field from an accredited school and two years of full-time supervised experience in a social work setting. (See Section 401. Appendix G for the list of degrees which are accepted as human service degrees.)

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.320 Child Welfare Workers

- a) Child welfare workers perform administrative duties, supervise placement of children, evaluate goals for placement, prepare progress reports, provide services to family members, arrange and supervise visits between children in placement and their family members and siblings, recommend discharge or placement of children, and keep required records. Child welfare workers shall have at least a Bachelor's Degree from an accredited school in social work or a human services field, and shall be under the supervision of a qualified

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child welfare supervisor. (See Section 401.330 Appendix G for the list of degrees which are accepted as human service degrees.)

b) All persons currently serving as child welfare workers who have served in that capacity for a minimum of one year immediately preceding the adoption of this Section shall continue to be deemed qualified for their position.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.330 Licensing Staff

Child welfare agencies may have staff who are trained and authorized to perform the licensing function as part of their duties as a child welfare worker or may designate licensing as a separate function as long as the staff meet the minimum qualifications to serve as a child welfare worker. Regardless of whether licensing is performed by child welfare workers or by separate licensing workers, each staff member who studies foster family homes, adoptive homes, or day care homes must meet the requirements for a child welfare worker in Section 401.320 and must be tested by the Department and determined to be qualified to examine each type of facility for licensure before performing any licensing duties. Evidence of successful completion of the licensing examination shall be maintained in the employee's personnel file.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.340 Professional Staff

Professional staff such as social workers, clinical social workers, psychologists, psychiatrists, physicians, dentists, teachers, occupational therapists, physical therapists, marriage and family therapists, and professional counselors must provide, prior to rendering service to the agency as an employee or independent contractor, a copy of their currently valid license for the child welfare agency's records. This applies to all full time, part time, and contractual staff or consultants which provide services to children through the auspices of the child welfare agency. The child welfare agency shall verify with the Department of Professional Regulation or other licensing entity that the license is a valid professional license. Appendix H of this Part lists the professionals who are required to be licensed or registered and the statutory citation for that requirement.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.350 Support Personnel

Clerical and secretarial services shall be provided to maintain correspondence.

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records, bookkeeping and files in current and good order. Janitorial and maintenance staff or services shall be provided to keep the building and grounds in proper order.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.360 Use of Volunteer Services

a) Volunteers may be used in any position for which they are qualified. If volunteers are used as replacement or supplemental staff, as defined in Section 401.40, Definitions, the volunteer shall comply with the background check requirements of 89 Ill. Adm. Code 385, Background Checks, and becomes mandated to report suspected child abuse or neglect upon acceptance of the volunteer position.

b) Volunteers used to transport children must comply with the requirements of Section 401.450, Transportation.

c) Records shall be maintained on all volunteers who are used as replacement or supplemental staff. Such records shall contain the volunteer's name, address, phone number, and verification of the volunteer's qualifications for the assigned duties. In addition, the acknowledgments or certification required to verify compliance with the requirements of this Part shall be included in the volunteer file.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.370 Non-Discrimination Against Employees Who Report Suspected Licensing Violations

No employer shall discharge, demote, or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who:

a) makes any good faith oral or written complaint of any employer's violation of any licensing or other laws which may result in closure of the facility pursuant to Section 11.2 of the Child Care Act of 1969 [225 ILCS 10/11.2]; or

b) institutes or causes to be instituted against any employer any proceeding concerning the violation of any licensing or other laws, including a proceeding to revoke or refuse to renew a license; or

c) is or will be a witness or testify in any proceeding concerning the violation of any licensing or other laws, including a proceeding to revoke or refuse to renew a license; or

d) refuses to perform work in violation of a licensing regulation or other law or regulation after notifying the employer of the violation.

[225 ILCS 10/7.2]

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.380 Personnel Records

a) The child welfare agency shall maintain personnel records on all employees of the agency, whether full-time or part-time. These records shall contain:

- 1) a copy of the form required to be sent to the Department of Children and Family Services which contains information on persons employed by a child welfare agency;
 - 2) a certified transcript of the employee's educational achievements, when required for the individual's position. Foreign credentials require additional documentation providing a certified translation and statement of the equivalency in the U.S. educational system;
 - 3) verification the employee holds a valid professional license (if required by law);
 - 4) acknowledgment on a form prescribed by the Department of the employee's status as a mandated reporter of child abuse and neglect by virtue of his or her employment;
 - 5) the employee's work history and residence for the past three years. When the employee's work experience is considered part of the individual's qualifications for his or her current position, the child welfare agency must verify the employee's stated work history;
 - 6) if the employee or his or her supervisor examines foster family homes or day care homes for licensure, verification that the employee and supervisor has passed the licensing examination for all types of facilities the employee examines or supervises;
 - 7) if the employee transports children, proof of insurance and a valid driver's license and the certification required by Section 401.450(C); and
 - 8) a copy of each employee's annual evaluation and any progressive discipline provided to an employee. Such records of progressive discipline shall be maintained in accordance with the personnel policies approved by the governing body.
- b) Authorizations for and the results of a background check, as required by 89 Ill. Adm. Code 385, Background Checks, shall be maintained in a separate and confidential file.

(Source: Added at 21 Ill. Reg. _____, effective _____)

SUBPART E: SERVICES TO CHILDREN

Section 401.400 Legal Safeguards of Children Served

The agency shall have written verification of the legal status for all children accepted for care and service. There shall be written financial agreements between the child welfare agency, foster family parents, and the legal

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guardian, court, or another agency, as applicable and appropriate for the care of the child and the management of any monies or benefits received on the child's behalf.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.410 Required Written Consents

- a) The agency shall secure specific, dated, time-limited, written consents from the child's parent, guardian, or other legal custodian before approving certain actions which may include but are not limited to:
- 1) health care and treatment, including medical, surgical, psychiatric, and dental, except under emergency circumstances when such consents are not required by the Consent by Minors to Medical Procedures Act [410 ILCS 210];
 - 2) administration of psychotropic medications;
 - 3) religious instruction and/or church attendance in a different faith;
 - 4) work programs, enlistment in the armed services, and car ownership;
 - 5) visits, trips, or excursions which last more than 72 hours or which involve out-of-state travel;
 - 6) use of photographs for publicity or other purposes;
 - 7) consent to marriage for children under age 18;
 - 8) participation in research projects, especially those which involve wards of the State of Illinois; and
 - 9) consent to attend school in another district.
- b) Any written or verbal consent or authorization which conflicts with the requirements of this Part is invalid.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.420 Agency Responsibility

- a) Each child served by the agency shall, at all times, have a designated child welfare worker assigned or, for a period of time not to exceed 30 days, the case may be assigned to a child welfare supervisor.
- b) Children in placement shall be seen by the child welfare worker assigned to the case at least once every month.
- c) When family reunification is the goal, services shall be provided to the biological family and siblings of the child in placement.
- d) Each licensed facility supervised by the child welfare agency shall be visited by the licensing worker of the agency at least semi-annually to insure that the standards for licensing continue to be met.
- e) Critical decisions regarding a child, such as accepting for placement,

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subsequent placements, determination of or changes in the service plan, and discharge from care, shall be reviewed by the child welfare supervisor prior to implementation and when needed. These critical decisions shall result in a revised service plan.

f) A comprehensive written admission study shall be completed within 30 days after admission and shall include:

- 1) child's name, birth date, place of birth, sex, race, religious affiliation, primary language, legal status including the legal status of the parents, and present address;
 - 2) names, birth dates, places of birth, marital status, sex, race, religious affiliation, primary language, addresses, and telephone numbers of the child's biological and adoptive parents;
 - 3) date and facility of placement and information concerning any special care or treatment provided to the child and his or her family; and
 - 4) reasons for, and the goal of, placement.
- g) The child and/or his or her parent or guardian shall be active participants, to the extent possible, in all decisions regarding the reasons for, and the goal of placement, the child's educational plan, and the service agreement.
- h) Child welfare agencies that license or supervise foster family homes shall comply with the Foster Parent Law [20 ILCS 520].

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.430 Interstate Placement of Children

An agency placing children outside the State of Illinois or receiving children from outside the State shall adhere to all rules and regulations of legal authorities pertaining to such placements and to the requirements of the Interstate Compact on the Placement of Children Act [45 ILCS 15], where applicable, and Department rules, 89 Ill. Adm. Code 328, Interstate Placement of Children.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.440 Health and Medical Services for Children

a) The agency shall have written policies providing for medical, surgical, and dental care for children in placement. Such policies shall be formulated in consultation with physicians and dentists licensed to practice in the State of Illinois.

b) Medical records on each child shall be maintained, including medical history, parental or guardian consent for medical treatment, report of admission examination, all subsequent examinations, diagnoses, illnesses, immunizations, treatment, and discharge examination.

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c) A complete medical history shall include:

- 1) current problems, medications and handicaps, past health conditions such as diseases, allergies and surgeries, immunizations and dates, and report of most recent physical examinations; and
 - 2) all available information pertaining to the health history of the child's family.
- d) Children shall be examined annually or more frequently if findings and medical opinion indicate a need. Diagnosed medical problems shall be treated promptly.
- e) Dental examinations shall be given at least annually. Diagnosed dental defects shall receive prompt treatment.
- f) Immunizations and tests shall be administered as required by the Illinois Department of Public Health rules, Immunization Code (77 Ill. Adm. Code 695), or as recommended by the child's physician.
- g) Immunizations must be waived or modified for a child who, for medical reasons, should not be subject to an immunization or when there is a waiver on religious grounds.
- h) If treatment for any physical impairment which requires continuing or follow-up medical attention is needed, the parent, guardian or other facility shall be notified in writing.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.450 Transportation of Children

a) These requirements apply to any child welfare agency that provides or arranges for the transportation of children to or from their home, whether a permanent home or a foster family home, to other prearranged sites, e.g., to another placement, for visits with family members, to a physician or to another professional.

b) The child welfare agency must insure that all persons who transport children on behalf of the agency hold a valid driver's license and have insurance, as required by the Illinois Vehicle Code [625 ILCS 5/]. (Persons with a special driving permit are not considered to have a valid driver's license.)

c) The child welfare agency shall ask all drivers to answer the following questions in writing and shall include the response to these questions in their personnel files. Persons who answer "yes" to either question (1) or (2) shall not be permitted to transport children.

1) Has your driver's license been revoked or suspended within the past three years for driving under the influence, manslaughter, reckless homicide, or any other reason?

2) Have you caused an accident which resulted in the death of any person within the past five years?

d) The child welfare agency shall adopt emergency procedures to be followed in the event of an accident, serious illness, or severe

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weather. Copies of these procedures and other pertinent information shall be provided to all persons driving on behalf of the child welfare agency.

- e) Age-appropriate safety restraints which are federally approved and labeled as such shall be used at all times when transporting children in vehicles having a gross weight of less than 10,000 pounds, except that individual safety restraints are not required when children ride as passengers in taxicabs or common carriers or public utilities.
- f) No more than one child may be in each seat belt or safety restraint.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.460 Agency Supervised Foster Family Homes, Group Homes and Day Care Homes

- a) Foster family and day care homes operated and supervised by a child welfare agency shall be licensed according to the standards prescribed and published by the Department for licensing such foster family and day care homes.

- b) The child welfare agency shall submit an application for a license on forms provided by the Department for each foster family home and day care home supervised by it. The child welfare agency shall recommend the licensure of or denial of license of family homes supervised by the child welfare agency. The child welfare agency shall make these recommendations to the Department in accordance with 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, and 89 Ill. Adm. 406, Licensing Standards for Day Care Homes.

- c) The child welfare agency supervising a group home licensed by the Department shall be responsible for ensuring the facility operates in accordance with the applicable licensing standards prescribed by the Department. When the child welfare agency intends to supervise a group home, the child welfare agency shall forward the group home license application and necessary documentation to the Department. Department's licensing staff shall conduct a license study and determine whether the group home is in compliance with 89 Ill. Adm. Code 403, Licensing Standards for Group Homes.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 401.470 Agency Responsibilities for Adoption Services

Child welfare agencies must assure the Department that placements of children for adoption are made in the best interests of the children and are selected to meet the needs of the child at the time of the placement and as the child grows and develops. In addition to meeting all requirements for a child welfare agency described in this Part, agencies which provide adoption services must

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meet the following additional requirements:

- a) have guidelines and eligibility criteria for the selection and evaluation of adoptive home applicants;
- b) provide pre-placement services which include the assessment and preparation of the potential adoptive family as well as the child in need of an adoptive home;
- c) provide the adoptive family with all non-identifying information about the child which has been verified as accurate, whenever possible. If it is not possible to verify the accuracy of the information provided to the adoptive parents, the agency may provide the information to the adoptive family, but shall note that the information has not been verified;
- d) ensure that the legal rights of all parties, including the birth parents, the child, and the adoptive parent are protected throughout the adoption process;
- e) provide the adoptive family, through written agreements, with a clear explanation of the charges and costs the family will incur in the adoption process;
- f) comply with all State and federal laws and the requirements of 89 Ill. Adm. Code 333, Intercountry Adoption Services, when the adoptive placement involves a child from a foreign country; and
- g) meet the requirements of 89 Ill. Adm. Code 309, Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible, when providing adoption services to children who are the legal responsibility of the Department.

(Source: Added at 21 Ill. Reg. _____, effective _____)

SUBPART F: SEVERABILITY CLAUSE

Section 401.500 Severability of This Part

If any court of competent jurisdiction finds that any rule, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.APPENDIX A Licensing Progression for Child Welfare AgenciesLicense StatusPermitExplanation

Issued only once prior to issuance of a provisional license for not more than six months to enable a new child welfare agency to come into reasonable compliance with licensing standards before an initial, provisional license is issued.

Provisional License

Issued for the first two years of initial licensure to allow a newly licensed facility a period of time to demonstrate the ability to operate the child welfare agency responsibly and remain in compliance with licensing standards. Allows the Department of Children and Family Services to evaluate the quality of licensing and child welfare services provided by the agency. A provisional license may also be issued when a child welfare agency reapplies for licensure after the prior license was voluntarily surrendered, revoked or the Department refused to renew the license.

Full License

Issued after a child welfare agency has completed its provisional license period when the agency is in reasonable compliance with licensing standards and has demonstrated the ability to operate the child welfare agency responsibly.

Conditional License

Issued for not more than six months to enable a child welfare agency to correct deficiencies in its operations which do not jeopardize the health, safety, morals or welfare of the children served. Any other license held by the agency is revoked when a conditional license is issued. If the facility fails to correct the deficiencies and meet all licensing standards at the end of the conditional license period, the Department shall deny full license. (See 225 ILCS 10/8.2.)

Deemed Status

Programs of the child welfare agency are deemed to be in full compliance with the requirements of this Part because the program is fully accredited by the Council on Accreditation of Services for Families and Children and there have been no substantiated licensing complaints which affect the health, safety, morals, or welfare of

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children served by the agency during the past four years. The Department shall conduct annual monitoring visits to verify continued compliance with the requirements of this Part.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.APPENDIX B Requirements for Operation of Branch Offices

A multi-site child welfare agency may operate branch offices. The headquarters of the child welfare agency may delegate authority, in accordance with the requirements of this Appendix B, to the branch offices to receive licensing applications from foster family and day care home applicants and make recommendations for licensure directly to the Department. The child welfare agency headquarters authorization of delegation of licensing authority to the branch office must be in writing, signed by the executive director of the child welfare agency, and must include the following:

- the name of the administrative staff person primarily responsible for the day-to-day operation of the branch office; and
- the address, phone number and office hours for the branch office; and
- the names of the staff persons in the branch office who have passed the licensing examinations required by the Child Care Act of 1969, thus qualifying them to conduct license studies, and the types of facilities which they are qualified to examine.

The written delegation of authority must be filed with the regional licensing office serving the branch office of the child welfare agency and, if different, the regional office licensing the child welfare agency headquarters. If the child welfare agency is fully licensed in good standing and the branch office has sufficient qualified staff who have passed the licensing examinations for the types of facilities to be licensed by the branch office of the child welfare agency, the regional licensing administrator shall approve the operation of the branch office for the recommendation of foster family and day care home licenses.

Any and all enforcement actions (orders for compliance, license revocation, conditional license, provisional license, etc.) will be handled through the child welfare agency headquarters with a copy to the branch office of the child welfare agency.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.APPENDIX C Financial Analysis of Child Welfare Agency Operations

A certified public auditor who is not affiliated with the child welfare agency, other than to perform the annual audit required by this Part, shall prepare responses to the following questions about the operations of the child welfare agency for the prior fiscal year and submit them to the Department within 180 days after the end of the agency's fiscal year. This response shall be signed and dated by the auditor, the executive director, and head of the agency's governing body. When the child welfare agency functions within a larger multi-service agency, the responses to these questions shall be limited to the operation of the child welfare agency.

- 1) Does the agency have an adequate accounting or bookkeeping system which accounts for receipts, disbursements, assets and liabilities?
- 2) Does the bookkeeping system include, minimally, a chart of accounts and appropriate accounting journals?
- 3) Has the agency failed to meet any agency payroll in accordance with the specified payroll schedule?
- 4) Has the agency failed to pay relative caregivers or foster parents in accordance with the established payment schedule?
- 5) Has the agency been delinquent in paying its payroll taxes or other tax liabilities?
- 6) Has the agency defaulted on agency debts?
- 7) Has the agency failed to bill on a timely basis for amounts due to the agency?
- 8) Has the agency failed to collect bad debts? Has the agency had to write-off bad debts?
- 9) Has the agency failed to maintain adequate assets to provide continuous agency operations and provide services such as staff, taxes, rent, utilities, and supplies for a period of at least 30 days?
- 10) If the agency has a cumulative operating deficit which is not attributable to a planned one-time increase in expenditures, has the agency developed and implemented a corrective plan which has been submitted to the governing body for approval?

If the answer to any of the questions 3 through 10 is "yes", please provide details which explain the "yes" answer, attaching additional sheets as necessary.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.APPENDIX D Minimum Requirements for a Risk Management Plan

The risk management plan required by Section 401.220(g) shall address at least the following areas of risk with the answers sufficiently explained.

- 1) What risks are presented by the child welfare services offered or supervised by the child welfare agency? How is the agency minimizing those risks?
- 2) What risks are presented to staff and caregivers in the conduct of their duties? How is the agency minimizing those risks? Does the child welfare agency provide staff with a photo identification card?
- 3) What training is provided to staff, foster parents, relative caregivers, day care home providers, or youth in independent living arrangements to help them identify and minimize risks associated with their various duties or living arrangements? Describe all required training.
- 4) Does the agency have a plan to assure the quality of services it delivers? Describe the quality assurance plan.
- 5) Are adequate investigations into the qualifications, education, and experience of staff completed before they are hired? Describe the hiring process.
- 6) Are agency personnel sufficiently qualified to provide services to the types of children accepted for care? How do staff qualifications compare to the special needs which children or youth may present?
- 7) Does the design of any building used for family and child related activities (such as rooms used for family counseling or visits) minimize risks to staff and clients?
- 8) Are buildings used by the child welfare agency appropriately maintained?
- 9) Does the agency have a regular maintenance schedule for vehicles used to transport children? If so, describe the schedule.
- 10) Does the agency require persons who transport children to use child safety restraints and make adequate child safety seats available to staff and volunteers?
- 11) Does the agency have policies in place regarding when staff and volunteers of the opposite sex may and may not be alone with clients?
- 12) Does the agency have emergency and disaster preparedness plans? Are they posted and made available to staff? If so, describe the plan and how it is made available to staff.
- 13) Has the agency addressed any deficiencies identified by the independent auditor in the management of its financial resources? Explain what actions were taken.

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.APPENDIX E Acceptance of Voluntary Surrender of License - No Investigations Pending**OFFER OF VOLUNTARY SURRENDER BY A CHILD WELFARE AGENCY**

(No investigations pending)

I, (Name of head of governing body) _____, affirm that the governing body of the (name of the child welfare agency) met on (date of meeting) and voluntarily agreed to surrender license number _____, expiration date of _____ (original license attached to this agreement).

I further state that the agency, to the best of the knowledge of myself and each member of the governing body, is not presently under investigation by the Department of Children and Family Services for any licensing complaint or report of suspected abuse or neglect or by the DCF's-Office of Inspector General or by any other state agency of any state or its inspector general or by any local, State or federal law enforcement agency for any reason.

I acknowledge that if, at any time after the acceptance of the offered surrender of license, the Department learns that the child welfare agency knew or should have known that it was under investigation at the time it offered to surrender its license and failed to disclose the information to the Department, the Department at its option may set aside its acceptance of the surrender and proceed to take appropriate action against the licensee and the license, including but not limited to, the revocation of the license or the refusal to renew the license.

I further state that the attached listing is a complete and correct listing of the names and addresses of the child care facilities supervised by this child welfare agency and of the license exempt day care, relative home care, independent living facilities, and other programs operated by the child welfare agency.

Printed name and title of head of governing body _____

Signature _____/Date _____

County of _____)

State of Illinois _____) ss

Subscribed and sworn before me this _____ day of _____, _____.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
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Notary Public

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ACCEPTANCE OF VOLUNTARY SURRENDER BY A LICENSING REPRESENTATIVE
(No investigations pending)

I, (name of licensing administrator), accept the voluntary surrender of this license and affirm that, to the best of my knowledge, this child welfare agency is not presently under investigation by the Department of Children and Family Services for any licensing complaint or report of suspected abuse or neglect, and that neither the DCFS-Office of the Inspector General nor any other state agency of any state or its office of inspector general nor any local, any State or any federal law enforcement agency has given the Department notice that this child welfare agency is under investigation. Further, no litigation exists between the Department and this agency.

Printed name and title of licensing administrator

Signature of DCFS licensing administrator/Date
(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401 APPENDIX F Acceptance of Voluntary Surrender of License - Investigations PendingAGREEMENT FOR THE VOLUNTARY SURRENDER OF A LICENSE

(Investigations pending)

I, (name of head of the governing body), affirm that the governing body of the (name of the child welfare agency), met on (date of meeting) and agreed to voluntarily surrender license number , with an expiration date of (original license attached to this agreement).

I further state that the child welfare agency has reason to believe that it is presently under investigation by the Department of Children and Family Services for a licensing complaint or a report of suspected abuse or neglect, by the DCFS-Office of the Inspector General or by any local, State or federal law enforcement agency for any reason, or that litigation is pending between the Department and the child welfare agency.

In the following space, identify the investigating agency and summarize the basis of the investigation, if known. Attach additional pages, if necessary.

In the following space identify all pending litigation between the Department and the child welfare agency. Provide the name of the case, docket number, and:

- a) the county in which it is filed, if a State action,
- b) appellate district, if on appeal,
- c) the district, if it is a federal action, or
- d) the circuit, if it is on appeal.

I further state that the governing body of the child welfare agency or its successor will not apply for a license as a child welfare agency until (insert date at least one year from today's date).

I further state that the attached listing is a complete and correct listing of the names and addresses of the child care facilities supervised by this child welfare agency and of the license exempt day care, relative home care, independent living facilities, and other programs operated by the child welfare agency. (Attach additional pages, if necessary.)

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Printed name and title of head of governing body

Signature

/Date

County of)
State of Illinois) ss
Subscribed and sworn before me this day of ,

Notary Public

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ACCEPTANCE OF VOLUNTARY SURRENDER BY A LICENSING ADMINISTRATOR

I, (name of the licensing administrator), accept the voluntary surrender of the license and agree that the Department will not seek to revoke the license and will not refuse to renew the license if the statements made above are correct and complete. As part of this agreement, the Department will not accept another application for license as a child welfare agency before (insert date at least one year after the date of acceptance of the voluntary surrender).

Printed name and title of licensing administrator

Signature of DCFS licensing administrator/Date

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401.APPENDIX G Acceptable Human Services Degrees

Only the following degrees may be accepted as human services degrees.

Early Childhood Development
Guidance and Counseling
Home Economics - Child and Family Services
Human Service Administration
Human Services
Master of Divinity
Pastoral Care
Pastoral Counseling
Psychiatric Nursing
Psychiatry
Psychology
Public Administration
Social Science
Social Services
Sociology

(Source: Added at 21 Ill. Reg. _____, effective _____)

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Section 401. APPENDIX H Professionals Who Must Be Registered or Licensed

Type of Profession	Statute Which Requires Registration or Licensure
<u>Athletic Trainer</u>	<u>Illinois Athletic Trainers Practice Act [225 ILCS 5]</u>
<u>Clinical Social Worker</u>	<u>Clinical Social Work and Social Work Practice Act [225 ILCS 20]</u>
<u>Dental Assistant</u>	<u>Illinois Dental Practice Act [225 ILCS 25]</u>
<u>Dentist</u>	<u>Illinois Dental Practice Act [225 ILCS 25]</u>
<u>Dietician</u>	<u>Dietetic and Nutrition Services Practice Act [225 ILCS 30]</u>
<u>Marriage and Family Therapist</u>	<u>Marriage and Family Therapy Licensing Act [225 ILCS 55]</u>
<u>Nurse</u>	<u>Illinois Nursing Act of 1987 [225 ILCS 65]</u>
<u>Occupational Therapist</u>	<u>Illinois Occupational Therapy Practice Act [225 ILCS 75]</u>
<u>Optometrist</u>	<u>Illinois Optometric Practice Act of 1987 [225 ILCS 80]</u>
<u>Pharmacist</u>	<u>Pharmacy Practice Act of 1987 [225 ILCS 85]</u>
<u>Physical therapist</u>	<u>Illinois Physical Therapy Act [225 ILCS 90]</u>
<u>Physician</u>	<u>Medical Practice Act of 1987 [225 ILCS 60]</u>
<u>Physician Assistant</u>	<u>Physician Assistant Practice Act of 1987 [225 ILCS 95]</u>
<u>Podiatrist</u>	<u>Podiatric Medical Practice Act of 1987 [225 ILCS 100]</u>
<u>Professional Counselor</u>	<u>Professional Counselor and Clinical Professional Counselor Act [225 ILCS 107]</u>
<u>Psychologist</u>	<u>Clinical Psychologist Licensing Act [225 ILCS 15]</u>
<u>Social Worker</u>	<u>Clinical Social Work and Social Work Practice Act [225 ILCS 20]</u>
<u>Speech-Language Pathologist</u>	<u>Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]</u>
<u>Teacher</u>	<u>School Code [105 ILCS 5]</u>

(Source: Added at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible
- 2) Code Citation: 89 Ill. Adm. Code 309
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
309.10	New
309.20	New
309.30	New
309.40	New
309.50	New
309.60	New
309.70	New
309.80	New
309.90	New
309.100	New
309.110	New
309.120	New
309.130	New
309.140	New
309.150	New
309.160	New
309.170	New
309.190	New
- 4) Statutory Authority: 20 ILCS 505; 750 ILCS 50; 42 U.S.C.A. 670 et seq; 45 CFR 1356.40 and 1356.41.
- 5) A Complete Description of the Subjects and Issues Involved: These rules describe the adoption services provided to children for whom the Department of Children and Family Services is legally responsible. The rules bring Department adoption practices into compliance with the standards of the Council on Accreditation of Services for Families and Children and the provisions of the B.H. Consent Decree. These rules will also replace the current adoption related rules found in 89 Ill. Adm. Code 302, Services Delivered by the Department, Sections 302.300, 302.305, and 302.315, for which a Notice of Proposed Repealer is also being filed. Section 302.310, Adoption Assistance Agreements, will be recodified into these new rules as Section 309.180 when these rules are adopted.
- 6) Will these proposed rules replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any proposed amendments to this Part pending? No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

Public hearings have been scheduled on these proposed amendments in the following locations. Persons are asked to limit their testimony to fifteen minutes per person. If translation or interpretation services are needed to enable participation in the public hearings, please contact the Office of Rules and Procedures as indicated above. Public hearings are scheduled as follows:

Itasca	Peoria
June 13, 1997	June 16, 1997
10:00 a.m. - 12:00 Noon	7:00 p.m.
Statewide Foster Care Conference	Holiday Inn City Centre
Wyndham Hotel	500 Hamilton Blvd.
400 Park Blvd.	Peoria, IL 61602
Itasca, IL	(309) 674-1205
(312) 773-4000	
Chicago	Aurora
June 19, 1997	June 23, 1997
7:00 p.m.	7:00 p.m.
Quality Inn Chicago Downtown	North Island Center
1 South Halsted Street	Copley Theater
Chicago, IL 60661	8 East Galena Blvd.
(312) 829-5000	Aurora, IL 60506
	(312) 264-7202

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Collinsville
June 26, 1997
7:00 p.m.
Gateway Center
One Gateway Drive
Collinsville, IL 62234
(618) 345-8998

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: For profit adoption agencies who contract with the Department
- B) Reporting, bookkeeping or other procedures required for compliance: Reports and record keeping as required by Department contracts and Department rules and procedures.
- C) Types of professional skills necessary for compliance: Casework skills necessary to conduct complex assessments of the suitability of families wishing to adopt children, assessments of children in need of adoptive homes, preparation of families and children for adoption, and counseling skills.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for the rulemaking was not anticipated at the time of the last two regulatory agendas.

The full text of the proposed rule begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 309

ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

Section	Purpose
309.10	Definitions
309.20	Recruitment of Adoptive Families
309.30	Adoption Listing Services
309.40	Identification of Children for Potential Adoption Planning
309.50	Children Free for Adoption
309.60	Legal Risk Placements
309.70	Putative Father Registry
309.80	Termination of Parental Rights
309.90	Preparation of Children for Adoption
309.100	Preparation and Training of Adoptive Families
309.110	Preparation of the Child's Biological Parents
309.120	Placement Considerations
309.130	Placement of Children with Adoptive Families
309.140	Providing Information to Adoptive Families
309.150	Post-Placement Services
309.160	Post-Adoption Registry
309.170	
309.180	
309.190	

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.; 45 CFR 1356.40 and 1356.41).

SOURCE: Adopted at 21 Ill. Reg. _____, effective _____.

Section 309.10 Purpose

The purpose of this Part is to describe adoption services available to children for whom the Department of Children and Family Services is legally responsible. These services include the recruitment, selection, preparation and training of adoptive families, the identification and preparation of children for adoption, and adoptive placement and finalization. This Part also describes supportive services to adoptive families and children. These services include adoption assistance, adoption registry services, adoption preservation and post-adoption services.

Section 309.20 Definitions

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"Adoption assistance" or "adoption subsidy" means financial assistance and other services from the Department which are provided to the adoptive parents after the finalization of an adoption of a child with special needs as defined in Section 309.180.

"Adoption placement" means a living arrangement with a family which is directed toward establishing that family as the child's new legal parents.

"Adoption triad" means the adoptive family, the adoptee (child being adopted) and the biological family.

"Attachment" means the lasting psychological tie between two people who have significance for each other that endures through space and time and serves to join them emotionally.

"Children for whom the Department of Children and Family Services is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Confidential intermediary" is an individual appointed by the court for the purpose of obtaining from biological parents or siblings of an adopted person information concerning the background of a psychological or genetically-based medical problem experienced or which may be experienced by the adopted person or obtaining assistance in treating such a problem. [750 ILCS 50/18.3a] A confidential intermediary is obliged by law to protect the identity and privacy of the biological family.

"Legal risk placement" means the placement with a family of a child, not yet legally free for adoption, made in the best interests of the child with the intent that the family will become an adoptive resource for the child should the child become legally free for adoption.

"Legal screening" means a review required by the Department prior to referring a case for termination of parental rights for the purpose of freeing a child for adoption. The purpose of the screening is to determine whether sufficient grounds for termination of parental rights exist and whether adoption is in the best interest of the child. Legal screening is further described in Section 309.90.

"Parental unfitness" means a finding by the court that a person is unfit to parent a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are described in Section 309.50, Early Identification for Adoption, and in the Adoption Act [750 ILCS 50].

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"Post-adoption services" are services meant to assist and support the family in maintaining itself in a healthy and nurturing environment and in preserving the adoption. Post-adoption services may include, but are not limited to, social, psychological, psychiatric, health, educational and adoption preservation services. Financial services are available to families and adoptees following the legal consummation of the adoption, when they are eligible for adoption assistance. Post-adoption services also address the needs of adult adoptees and their biological families to seek information and contact, when desired.

"Putative father" means a male, regardless of age, who may be a child's father, but who was not married to the child's mother on or before the date that the child was or is to be born and has not established paternity of the child in a court proceeding.

"Specified consent for adoption" is a voluntary act by the parent(s) to relinquish all parental rights of a child to a person or persons specified by the parent(s) in the specific consent document.

"Surrender for adoption" is a voluntary act by the parent(s) to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Termination of parental rights" is a legal action of the court or a voluntary action by the parent(s) which relieves the birth parents of a child of all parental responsibility for the child and deprives them of all legal rights with respect to the child.

Section 309.30 Recruitment of Adoptive Families

The Department shall make special efforts for the diligent recruitment of potential adoptive families that reflect the ethnic and racial diversity of the children for whom adoptive homes are needed. Special efforts shall include contacting and working with community organizations and religious organizations and may include contracting with those organizations, utilizing local media and other resources, and conducting outreach activities. [20 ILCS 505/7]

Section 309.40 Adoption Listing Services

a) Maintenance of Listings

- 1) The Department or its agent shall maintain coded listings which include the names and addresses of persons who have applied for and have been approved for the adoption of a child and the names of children for whom:

A) the Department has determined after a legal screening that adoption is in the best interests of the child and there are sufficient grounds for termination of parental rights; and

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B) two weeks have passed since the legal screening determination and an adoptive resource has not yet been identified for the child.

2) However, a child shall not be entered into a listing if it can be demonstrated that it would be contrary to the child's best interests to list the child due to the child's mental health problems. This exception must be reviewed and reapproved by the Department's Regional Administrator every six months.

b) Child welfare agencies that provide adoption services on behalf of children for whom the Department is legally responsible are to submit to the Department's agent, for inclusion in the coded listing, the names and addresses of all persons who have applied for and have been approved for adoption of a child and the names of such children who have not been placed for adoption. The Department's agent is:

Adoption Information Center of Illinois
188 W. Randolph, Suite 600
Chicago, Illinois 60601
(800)-572-2390

c) The Department or its agent shall make the coded listings available, without charge, to every child welfare agency in the State in a format which, in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services, protects the confidentiality of the persons seeking to adopt and of the child not yet placed for adoption.

Section 309.50 Identification of Children for Potential Adoption Planning

a) The Department shall immediately consider for all children under its care the possibility of adoption when exploring permanency options, and begin adoption planning when it is in the child's best interests and when either the grounds for parental unfitness as defined in the Adoption Act described in subsection (b) below are present or other additional factors as described in subsection (c) or (d) of this Section are present.

b) The following grounds of parental unfitness are defined in Section 1 of the Adoption Act [750 ILCS 50/1] and should be considered when adoption is in the best interests of the child:

- 1) *Abandonment of the child.*
- 2) *Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.*
- 3) *Desertion of the child for more than three months next preceding the commencement of the adoption proceeding.*
- 4) *Substantial neglect of the child if continuous or repeated.* Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.

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- 5) Extreme or repeated cruelty to the child.
- 6) Two or more findings of physical abuse to any children under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987 [705 ILCS 405], the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; a criminal conviction or a finding of not guilty by reason of insanity resulting from the death of any child by physical abuse; or a finding of physical child abuse resulting from the death of any child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987.
- 7) Failure to protect the child from conditions within his environment injurious to the child's welfare.
- 8) Other neglect of, or misconduct toward, the child; provided that in making a finding of unfitness the court hearing the adoption proceeding shall not be bound by any previous finding, order or judgment affecting or determining the rights of the parents toward the child sought to be adopted in any other proceeding except such proceedings terminating parental rights as shall be had under either the Adoption Act, the Juvenile Court Act or the Juvenile Court Act of 1987.
- 9) Depravity.
- 10) Open and notorious adultery or fornication.
- 11) Conviction of first degree murder in violation of paragraph one or two of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of a subsection (a) of Section 9-2 of the Criminal Code of 1961 of a parent of the child to adopted shall create a presumption of unfitness that may be overcome only by clear and convincing evidence.
- 12) Habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding.
- 13) Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a newborn child during the first 30 days after its birth.
- 14) Failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or to make reasonable progress toward the return of the child to the parent within 12 months after an adjudication of neglected minor, abused minor or dependent minor under the Juvenile Court Act or the Juvenile Court Act of 1987.
- 15) Evidence of intent to forego his or her parental rights, whether or not the child is a ward of the court:
 - A) as manifested by his or her failure for a period of 12 months:
 - i) to visit the child,
 - ii) to communicate with the child or agency, although able

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- to do so and not prevented from doing so by an agency or by court order, or
- iii) to maintain contact with or plan for the future of the child, although physically able to do so; or
- B) as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth:
 - i) to commence legal proceedings to establish his paternity under the Illinois Parentage Act of 1984 [750 ILCS 45] or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of the Adoption Act, that he is the father or the likely father of the child or, after being so informed where the child is not yet born, within 30 days of the child's birth, or
 - ii) to make a good faith effort to pay a reasonable amount of the expenses related to the birth of the child and to provide a reasonable amount for the financial support of the child, the court to consider in its determination all relevant circumstances, including the financial condition of both parents; provided that the ground for termination provided in this subsection (b) shall only be available where the petition is brought by the mother or the husband of the mother.
- 16) repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.
- 17) inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or mental retardation as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-116], or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period.
- 18) a finding of physical abuse of the child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987 and a criminal conviction of aggravated battery of the child.
- c) Early identification of children for adoption planning and a decision to expedite termination of parental rights is important in cases in which the parents' conduct toward the child or the child's sibling has been so egregious, as determined through legal screening, the State's Attorney's office, or the court, that the behavior justifies termination of parental rights or that the parents' incapacity to care for the child, combined with poor prognosis for treatment or rehabilitation, justifies a determination that parental rights should

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be terminated. Examples of egregious conduct are instances in which the parent is presumptively unfit and a petition for termination of parental rights to the child and additional children of the parent may be filed immediately. Such instances include but are not limited to:

- 1) a parent is convicted of manslaughter resulting from the death of a child by physical child abuse;
- 2) reports from at least two psychiatrists that a mother's mental illness will substantially impair her ability to parent for at least the next few years, that a long time will pass before the mother could parent independently, and that even with professional support and monitoring, she could not give the child a permanent home;
- 3) a parent abandons a newborn infant;
- 4) a parent murders the other parent of a child; or
- 5) a parent attempts to sell or prostitute a child.

d) Other additional factors to be considered in identifying the possibility of adoption for a child are:

- 1) the parent has signed or indicated a desire to sign a consent or surrender for adoption;
 - 2) the parent has previously signed a consent or surrender for adoption with regards to other children in the past and/or the parent has been found unfit with regard to other children in the past, thus indicating that a pattern may have evolved; or
 - 3) the parent has failed service plans as described in 89 Ill. Adm. Code 305, Client Service Planning, resulting in a rating of unsatisfactory progress which may be indicative of parental unfitness and return home to either parent is unlikely.
- e) The child's case shall be assessed to determine if any of the grounds for parental unfitness or other factors listed above exist:
- 1) when the Department first assumes custody of the child;
 - 2) within 30 days after case opening;
 - 3) at each six-month administrative case review; and
 - 4) at no less than quarterly reviews and supervisory meetings.

Section 309.60 Children Free for Adoption

a) Children are free to be adopted when any of the following occurs:

- 1) both parents of the child have signed adoptive surrenders or consents; or
 - 2) one parent has signed an adoptive surrender or consent and parental rights have been terminated on the remaining parent through court action or the parent is deceased; or
 - 3) a court has terminated the parental rights of both parents.
- b) A child 14 years of age or over who is free for adoption must consent to the adoption.

Section 309.70 Legal Risk Placements

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a) Legal risk placements are selected for children for whom the Department deems such placements are appropriate as described in this Section. Prior to making a legal risk placement, the Department shall conduct a legal screening in accordance with Section 309.90 to determine whether a legal risk placement is in the child's best interests. Legal risk placements may be appropriate, when pursuit of adoption is in the child's best interests, because:

- 1) any one of the circumstances listed in Section 309.50(b) is present; and
- 2) placement in a prospective adoptive home willing to adopt the child if the child should become legally free will reduce the necessity of multiple placements of the child or eliminate the length of time the child must wait for an adoptive home; and
- 3) any one of the following conditions representing the legal status of the child exists:

- A) one parent has surrendered parental rights and the identity of the other parent is unknown;
 - B) one parent has surrendered parental rights and a diligent search for the absent parent has been unsuccessful;
 - C) one parent has surrendered parental rights and the identity and whereabouts of the other parent is known and that parent has either made statements indicating a desire to surrender the child or grounds for termination of parental rights exist;
 - D) the identity and whereabouts of the parents are unknown;
 - E) termination of parental rights is under judicial appeal;
 - F) the child comes from a family in which other siblings have been freed for adoption and there is a strong indication that this child will also become free for adoption;
 - G) the court having jurisdiction over the child formally or informally requires that the child be placed with a potential adoptive family prior to considering a petition for involuntary termination of parental rights; or
 - H) the child is currently in a substitute care placement where the foster parents are not seeking to adopt and the State's Attorney has agreed to proceed with a petition to terminate parental rights.
- b) Prior to placing a child in a legal risk placement, the Department shall inform prospective adoptive parents of the risks and enter into a written agreement with the prospective adoptive parents which:
- 1) informs the prospective adoptive parents:
 - A) that the child is not yet legally free for adoption and may never be available for adoption;
 - B) of the residual parental rights retained by the biological parents until the child is free for adoption. Such residual rights, as defined by the Juvenile Court Act of 1987, include the right to reasonable visitation, the right to consent to adoption, the right to determine the child's

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religious affiliation, and the responsibility for the child's support [705 ILCS 405/1-3];

- C) of the possibility of the biological parents regaining custody of the child;
- D) of the current status of efforts to terminate parental rights;
- 2) states the intent of the prospective adoptive parents to adopt the child and the intent of the Department to seek adoption as a goal for the child if parental rights are terminated;
- 3) contains the prospective adoptive parents agreement to cooperate with a new permanency plan for the child if termination of parental rights is not achieved.
- c) The Department will provide any necessary financial, medical and supportive counseling and services before, during, and after placement of the child in the prospective adoptive parents' home.

Section 309.80 Putative Father Registry

a) The Department shall maintain a Putative Father Registry for the purpose of determining the identity and location of a putative father of a child who is, or is expected to be, the subject of an adoption proceeding in order to provide notice of such proceeding to the putative father.

b) The Department shall maintain the following information in the Putative Father Registry:

- 1) With respect to the putative father:
 - A) Name of the putative father, including any other names by which the putative father may be known and that he may provide to the Registry;
 - B) Address at which the putative father may be served with notice of petition under the Adoption Act, including any change of address;
 - C) The Social Security Number of the putative father;
 - D) The putative father's birth date; and
 - E) If applicable, a certified copy of an order by a court of the State of Illinois or of another state or territory of the United States adjudicating the putative father to be the father of the child.
- 2) With respect to the mother of the child:
 - A) Name of the mother, including any other names known to the putative father by which the mother may be known;
 - B) The mother's last address;
 - C) The mother's Social Security Number; and
 - D) The mother's date of birth.
- 3) If known to the putative father, the name, gender, place of birth, and date of birth or anticipated date of birth of the child.
- 4) The date the Department received the putative father's

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registration.

- c) A putative father may register with the Putative Father Registry at any time. All registrations shall be in writing, signed by the putative father, and submitted to the Department at the following address:

Putative Father Registry
Department of Children and Family Services
160 North LaSalle - 6th Floor
Chicago, IL 60601

- d) An interested party, including persons intending to adopt a child, a child welfare agency with whom the mother has placed or has given written notice of her intention to place a child for adoption, the mother of the child, or an attorney representing an interested party may request that the Department search the Putative Father Registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition.
- e) Upon receipt of a search request pursuant to subsection (d) above, the registrar shall issue a certified response from the Putative Father Registry.
- f) Except as provided in subsection (d) above, information contained in the Putative Father Registry is confidential and shall not be published or open to public inspection.
- g) A person who knowingly or intentionally registers false information under this Section commits a Class B misdemeanor. A person who knowingly or intentionally releases confidential information in violation of this Section commits a Class B misdemeanor. (See 750 ILCS 50/12.1.)

Section 309.90 Termination of Parental Rights

a) When one of the grounds for termination of parental rights appears to exist and return home as a permanency goal for the child is no longer appropriate in accordance with 89 Ill. Adm. Code 305, Client Service Planning, the Department shall conduct a legal screening in the Department region responsible for the family case.

b) The purpose of legal screening is to determine:

- 1) whether there is sufficient evidence to support a finding that there are grounds for termination of parental rights;
- 2) whether it is in the best interests of the child to seek termination of parental rights and, if the child is age 14 or over, whether the child will consent to the adoption; and
- 3) identification of the steps which need to be completed to permit the filing of a petition to terminate parental rights in accordance with local court practices.
- c) In addition, the legal screening shall include a review of all potential legal risks in order to advise the Department of the risks

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- d) involved and the feasibility of the plan.
The following persons shall attend the legal screening:
- 1) the Department's regional legal counsel;
 - 2) the child's worker;
 - 3) a representative from the regional adoption unit; and
 - 4) the worker's supervisor, whenever possible.
- e) If a determination is made at legal screening that adoption is in the best interests of the child and there are sufficient legal grounds for termination, the following steps shall be taken:
- 1) Identification of all interested parties, including all putative fathers not previously served;
 - 2) A supplemental petition for appointment of guardian with powers to consent to adoption (termination of parental rights) shall be prepared in all counties in which the Department, rather than the local office of the State's Attorney, prepares the petition;
 - 3) Supplemental petitions shall be forwarded to the local office of the State's Attorney (outside of Cook County);
 - 4) In Cook County, referral shall be made to the State's Attorney;
 - 5) The child's worker shall complete all tasks assigned throughout the process.
- f) The actual filing and prosecution of a termination of parental rights case rests with the local State's Attorney or their Department approved designee.

Section 309.100 Preparation of Children for Adoption

Preparation of children for adoption begins when adoption has been identified as a potential goal for the child. During this pre-placement phase, specific services are provided to the child for whom adoption is being considered.

- a) The Assessment Phase
- The assessment phase consists of preparation activities initiated before an adoptive home has been identified. The primary purpose of this phase is completion of an assessment to guide the identification of needs to be met and in directing intervention. Assessments already completed on the following issues should be reviewed, and if needing update, should be updated before deciding whether or not adoption is appropriate for a child:
- 1) assessing the child in relation to the physical, emotional, educational and social environment;
 - 2) determining the developmental level and potential of the child;
 - 3) gathering and assessing all pertinent information on the child and family, which includes a complete review of the family history;
 - 4) assessing the child's capacity for attachment;
 - 5) assessing the child's ability and opportunity to grieve losses;
 - 6) assessing issues involving the child's identity;
 - 7) assessing the child's unique qualities by focusing on the strengths and talents possessed by the child; and

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- 8) assessing the child's understanding of the adoption process and making a determination of the child's desire to move toward an adoptive placement.
- b) The Preparation for Placement Phase
- This phase includes activities that are initiated after the assessment has been completed and reviewed and all the placement considerations have been assessed for applicability for a particular child. Such activities include:
- 1) further assessment of the child's knowledge of adoption as a permanency goal, ensuring that the child understands the selection of the family will be a joint decision between the prospective adoptive family, the child and the Department;
 - 2) Sharing descriptive information about the family with the child;
 - 3) Helping the child deal with feelings of separation and loss;
 - 4) Arranging for specific recruitment activities for any child for whom an adoptive resource cannot be located.
- c) Diligent Recruitment Requirements
- If the child's caretaker is not a viable resource for the child, diligent recruitment efforts shall be undertaken to locate adoptive parents who are appropriate to meet the child's needs and best interests, utilizing the placement considerations described in Section 309.130, Placement Considerations. Diligent recruitment efforts include, but are not limited to:
- 1) a review of the Department's regional adoptive parent waiting list, contacts with local adoption agencies, and specialized recruitment activities such as parent groups, appropriate religious and civic organizations and service providers, advocacy groups and agencies who serve persons who can provide an environment which would preserve the child's racial, ethnic and cultural heritage;
 - 2) a review of the Adoption Listing Service to determine the availability of an appropriate family;
 - 3) listing the child with the Adoption Listing Service; and
 - 4) an interstate search, when necessary, consisting of contacts with other states, and out of state adoption agencies and referral/advocacy agencies to find a suitable adoptive placement.

Section 309.110 Preparation and Training of Adoptive Families

The preparation and training of prospective adoptive families will be done in the following four phases:

- a) Pre-service Preparation and Education
- During this first phase the Department or adoption agency will educate prospective adoptive parents in the following areas:
- 1) the purpose and goals of adoption;
 - 2) the selection process and the criteria for being licensed and certified as adoptive parents;
 - 3) the laws, regulations, policies, resources and values that direct

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- the adoption program;
- 4) information about the needs and strengths of children who require adoption services;
 - 5) the respective roles of adoptive parents, agencies, and courts;
 - 6) differences between parenting in foster home placement, legal risk placement, and adoptive placement regarding attachment, commitment, relationship with the child's family of origin, expectations, responsibilities, supports and the lifelong impact of adoption; and
 - 7) the knowledge and practice skills necessary to become successful adoptive parents.
- b) The Assessment Phase
- During the assessment phase the Department or adoption agency will:
- 1) help applicants make an accurate and informed assessment of the strengths they bring to adoption, including the kinds of children they could most successfully parent;
 - 2) help applicants make an accurate assessment of their needs, including the kinds of support they would need from the Department or the adoption agency;
 - 3) make an accurate assessment of the strengths and needs of the prospective adoptive family;
 - 4) match the prospective family's assessment with the Department's or agency's assessment;
 - 5) develop a written strength and needs assessment or family profile to be used to guide placement of specific children; and
 - 6) explore with applicants their willingness to help the child maintain contact with significant relationships in the child's past.
- c) The Certification Process
- The certification process includes completion of the required certification training and an assessment, which includes a written home study which incorporates information from the assessment phase and includes child specific recommendations which have been approved by the regional adoption coordinator.
- d) Post-Certification Phase
- During this phase the Department or adoption agency will:
- 1) provide continued support to the family, including information regarding children available for adoption;
 - 2) make specialized training available; and
 - 3) introduce adoptive families to adoptive parent support groups in those areas where they exist.

Section 309.120 Preparation of the Child's Biological Parents

Preparation of the biological parents of a child for whom an adoptive placement is being sought, includes the following:

- a) assistance and counseling, around issues pertaining to the surrender of parental rights or specified consent or in understanding the

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- reasons why, after reunification efforts have been attempted and failed or deemed to be inappropriate, involuntary termination of parental rights is being sought;
- b) in instances where the identity of the biological father is unknown, counseling the biological mother about her role and responsibility regarding the identification of the father as required in the Adoption Act [750 ILCS 50/11(b)] and explaining the potential consequences if the biological father is not identified;
 - c) counseling around issues of separation and loss;
 - d) obtaining necessary non-identifying background information regarding the biological family's social, medical, and psychological history, as well as the prenatal and medical history of the child;
 - e) affording the biological parents the opportunity to share identifying and non-identifying information with the child who is being relinquished for adoption through the Adoption Registry as specified in Section 309.190, Adoption Registry;
 - f) giving the biological parents the opportunity to express their desires regarding the placement of their child in an adoptive home which meets their religious, cultural, ethnic, linguistic, or racial preference. The Department will respect the parents' stated preferences, provided they do not delay placement of the child for adoption, are not contrary to the child's best interests, are consistent with applicable law such as the Adoption Act [750 ILCS 50], the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.), and the Multi-Ethnic Placement Act (42 U.S.C.A. 671);
 - g) providing information regarding the possibility of continuing contact between the child and the biological parents or other significant persons in the child's life, when such contact is in the child's best interests and compatible with the wishes of the adoptive parents.

Section 309.130 Placement Considerations

- a) Consideration of the Child's Needs
- The child's needs and best interests shall be the primary consideration when selecting an adoptive family for a child. The factors to be considered shall include, but are not limited to:
- 1) the wishes of the child under 14 years of age, who demonstrates the maturity and cognitive ability to participate in the decision;
 - 2) the physical, mental, and emotional needs of the child;
 - 3) the child's need for stability and continuity of relationship with parent figures;
 - 4) the interaction between the child and the prospective adoptive parent;
 - 5) the prospective adoptive parent's ability to meet the physical, mental, and emotional needs of the child;
 - 6) the prospective adoptive parents' ability and willingness to support, maintain and continue to be sensitive to the child's

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significant relationships with the child's extended family, siblings, and any other significant persons who played an important part in the child's life or to whom the child has established significant emotional ties;

- 7) the ability of the prospective adoptive family to provide an environment which would preserve the child's racial, ethnic, and cultural heritage;
- 8) the results of an assessment of the child's capacity for attachment conducted in accordance with subsection (b)(7) below; and
- 9) the consent of a child 14 years of age or older.

b) Other Placement Considerations

The following factors must also be considered when selecting an adoptive placement for a child:

- 1) Siblings: Sibling groups are to be placed together whenever possible. A decision to place siblings apart shall be based on a carefully documented and reviewed determination that such a separation will be in the best interests of all the siblings involved.
- 2) Foster Parent Preference: In accordance with the Adoption Act, licensed foster parents who have cared for a child for a continuous period of one year or more shall be given preference and first consideration over all other applicants for the adoption of that child in their home when adoption is the permanency goal, the child is legally free for adoption and adoption is in the child's best interests.
- 3) Consideration of Relatives: Relatives shall be considered as a potential adoptive resource for children who do not have an identified adoptive resource and are not going to be adopted by their current caregiver.
- 4) Parenting Capacity of Adoptive Parents: Adoptive parents shall be selected who are likely to retain their parenting capacities or are effectively able to adapt to the needs of the child as they grow, change and develop. Assessments shall include such information as the family's future plans for financial security, child care and supports for child rearing in the event of a significant illness or death of the adoptive parents.
- 5) Religion: The best interests of the child shall be the prime consideration in the placement of a child for adoption. A child shall be placed, whenever possible, with adoptive parents holding the same religious belief as that of the child. (See 750 ILCS 50/15.)
- 6) Communication Needs: In the case of a child who is hearing impaired, the child shall be placed in a home where one of the members is able to communicate in the child's preferred mode of communication; e.g., sign language. In the case of a limited/non-English speaking child, the child shall be placed in a home where at least one person speaks the child's primary

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language. In an otherwise suitable adoptive home, placement shall not be denied if the prospective adoptive parents have enrolled in a language course to learn the method of communication used by the child prior to finalization of the adoption.

- 7) Level of Attachment: When there is some question about a child's level of or capacity for attachment, the Department shall assess the child's level of or capacity for attachment in making an adoptive placement decision. Such assessments require prior supervisory approval after consultation with Department adoption staff.

Section 309.140 Placement of Children with Adoptive Families

When a specific family is identified as appropriate for the placement of a specific child waiting to be adopted, the Department or adoption agency will:

- a) present information on the child to the family to allow the family to make the decision to proceed to the next step in placement;
- b) bring the child and family together in a situation designed to offer the family an opportunity to observe the child's appearance and behavior without risk of rejection;
- c) arrange a face-to-face meeting between the child and family;
- d) plan a series of visits and contacts, usually of progressive duration, to move the child and family toward placement; and
- e) bring about the actual placement of the child with the adoptive family after which appropriate post-placement services will be provided in accordance with Section 309.160 of this Part.

Section 309.150 Providing Information to Adoptive Families

The Department or adoption agency will provide to the family identified to adopt the child the following information regarding the child as soon as possible, but no later than ten days prior to the date of the adoptive placement or the legal risk placement with prospective adoptive parents in the event the child is not yet free for adoption:

- a) Information about the child's biological parents, which shall include:
 - 1) age of the biological parents;
 - 2) their race, religion, cultural and ethnic backgrounds;
 - 3) general physical appearance;
 - 4) their education, occupation, hobbies, interests and talents;
 - 5) existence of any other children born to the biological parents;
 - 6) information about biological grandparents, reason for immigrating into the United States, and country of origin;
 - 7) relationship between biological parents; and
 - 8) detailed medical and mental health history of the biological parents and their immediate relatives as described in subsection (c) below.
- b) Information about the child, which shall include:

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- 1) identifying information which includes name, birth date, place of birth, order of birth, race, sex, physical description;
 - 2) developmental history which includes prenatal, delivery, postnatal, age at which significant milestones were achieved, and significant deficiencies or problems;
 - 3) education, which includes:
 - A) schools attended, grade level, type of program, present level of functioning, and current teacher;
 - B) special problems in school; and
 - C) the child's perception of his or her school experience;
 - 4) information about the child's personality and behavior, which includes:
 - A) how the child presents him/herself to the worker;
 - B) behavior problems, acting-out, delinquency;
 - C) family's perception of child, role in family, interaction with parents and siblings, with whom the child relates most often, favorite parent or sibling, least favorite parent or sibling, who disciplines, how each child perceives his/her role in the family;
 - D) child's strengths, interests, skills;
 - E) religious/cultural beliefs of the child; and
 - F) child involvement with the agency, including child's perception and involvement with other agencies, and the legal system;
 - 5) placement history, which includes:
 - A) reasons and date the child came into placement;
 - B) information as to why the child was unable to return to his/her family of origin;
 - C) number of placements the child has experienced since he/she has been in the care of the Department; and
 - D) information pertaining to any physical or sexual abuse or neglect of which the child was the victim;
 - 6) legal status, which includes:
 - A) whether the child is free for adoption;
 - B) whether the placement is a legal risk placement; or
 - C) whether the child has any other legal involvement.
- c) Information about the medical and health histories of the child and the biological parents which shall include:
- 1) for the child:
 - A) significant illnesses, diseases, disabilities, physicians, medications and immunization records;
 - B) conditions or diseases believed to be hereditary;
 - C) drugs or medications taken by the child's biological mother during pregnancy;
 - D) psychological and psychiatric information;
 - E) any other information that may be a factor influencing the child's present or future physical, mental, or emotional health;

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- 2) for the biological parents:
 - A) chronic and acute illnesses, hospitalizations, general health of grandparents and siblings, alcohol or other drug abuse;
 - B) conditions or diseases believed to be hereditary;
 - C) psychological and psychiatric information;
 - D) any other information that may be a factor influencing the child's present or future physical, mental, or emotional health.
 - d) No information provided under this Section shall disclose the names or last known address of the biological parents, grandparents, siblings of the biological parents, or any other relative of the child to be adopted.
- Section 309.160 Post-Placement Services**
- a) Purpose of Post-Placement Services
Post-placement services are services provided to the child and adoptive family from the date of placement of the child in the adoptive home to the date of finalization of the adoption for the purpose of:
 - 1) continuing the activities around the preparation of the child for adoption;
 - 2) protecting the child;
 - 3) ensuring successful integration of the child in the adoptive home;
 - 4) providing continuing support and placement stabilization in order to minimize the risk of placement disruption and multiple placements of the child; and
 - 5) facilitating adoption finalization.
 - b) Services Provided
During the post-placement period, the primary services the Department will provide are those activities that are directed toward:
 - 1) Empowerment of the Adoptive Family
The Department or adoption agency will help the family recognize successes, understand the stages of adjustment, and assume a decision making role on behalf of the child.
 - 2) Continued Assessment of the Child
The Department or adoption agency will continue to assess the child after placement has occurred to ensure that all existing and potential needs have been identified, and appropriate support services are in place prior to finalization.
 - 3) Assessing Adjustment of the Family and Child to the Placement and Providing Supportive Services
The services provided by the Department or adoption agency will be related to the needs of the adoptive family and the special needs of the adopted child, particularly if the child is older, has medical conditions, or physical, mental, or emotional

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disabilities, or is of a different ethnic, racial, or cultural group than the adoptive family. The assessment will explore the level of attachment occurring within the adoptive family and will utilize specific activities designed to promote and enhance attachment.

- 4) Further Discussion of the Child's Background Information
The Department or adoption agency will encourage discussion of the child's background to include specific behaviors exhibited by the child in order to ensure their understanding and acceptance.
- 5) Predicting and Interpreting Behaviors and Problem Solving
The Department or adoption agency will provide information relating to potential behaviors which may be exhibited by the child and assist the family in dealing with specific behaviors and problems that may arise.
- 6) Identification of Resources
The Department or adoption agency will make reasonable efforts to ensure that services are accessible and that referrals have been made where appropriate.
- 7) Completion of Necessary Finalization Papers and Reports
Information relating to the finalization of the adoption is provided to the family and efforts are directed toward completing all necessary reports required prior to finalization.
- 8) Disruption Services
Although the goal of post-placement services is to maintain the adoptive placement, it may be necessary to provide disruption services when it has been determined that continuation of the placement is not in the best interest of the child and family and removal is necessary.
- c) The Department or adoption agency will schedule regular in-person contacts with the family and child following placement until the adoption is finalized.
- d) The length of time between placement and legal adoption may vary due to the uniqueness of each situation, but will extend for at least six months unless waived by the court. The actual length of time shall be determined jointly between the worker, the court, and the adoptive parents.

Section 309.170 Post-Adoption Services

- a) Purpose of Post-Adoption Services
Services after adoption of a child with special needs are often essential in maintaining the adoptive family unit and empowering families to be advocates in the community for their children's needs. Consequently, the Department will provide post-adoption services in order to reduce the risk of adoption disruption and to support the goal of permanency in adoption.
- b) Post-Adoption Services
The Department or adoption agency provides the following post-adoption

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services either directly or through purchase of service providers:

- 1) Adoption preservation services will be provided to families with adopted children under age 18. These services are provided in accordance with 89 Ill. Adm. Code 302, Services Delivered by the Department, Subpart D: Intensive Family Preservation Services, and through other contracts with service providers.
- 2) Services to families receiving adoption assistance as described in Section 309.180 of this Part. These services include:
 - A) assisting families to utilize and access services available to them through adoption assistance;
 - B) assisting adoptive parents of children with developmental disabilities to access services available through the Illinois Departments of Mental Health and Developmental Disabilities and Rehabilitation Services;
 - C) assisting families who are eligible for conditional adoption assistance to access benefits at such time as their children's condition warrants treatment or professional intervention.
- 3) Search and on-going sharing of information among members of the adoption triad. This service includes:
 - A) providing to adults who had been the legal responsibility of the Department or to biological families of adult adoptees adopted through the Department:
 - i) non-identifying information regarding their biological background when requested;
 - ii) attempts to locate biological family members for purposes of updating social and/or medical information, if desired;
 - iii) identifying information upon the successful completion of a search, when notarized consents from all parties are received. The Department will provide names, addresses, and telephone numbers so that they may arrange a reunion provided that notarized consents from all parties are received;
 - iv) updated medical and psychosocial information between members of the adoption triad, when notarized consents from all parties have been received.
 - B) acting as or cooperating with confidential intermediaries appointed by the court in accordance with the Adoption Act [750 ILCS 50/18.3a]. In addition, the Department will maintain a list of confidential intermediaries who have been trained and certified by the Department.
 - C) providing to adoptive parents of minor children, if requested, non-identifying information on a child's background, if this information is available. The Department will also facilitate the exchange of updated medical and psychosocial information between members of the adoption triad and facilitate contact when members of the triad have

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signed notarized consents.

- D) facilitating contact between adoptees and their siblings when one or more is still in the Department's care or adopted elsewhere with the notarized consent of the adoptive parents of a minor child.

- E) facilitating contact, with the notarized consent of the adoptive parents, between adoptees who are minors and significant relationships in the minor adoptee's past when such contact has been established to be necessary to the adoptee's best interests, when all parties have provided written notarized consent for release of such identifying information.

- 4) Information and referral to services available in the community which would be of benefit to the adoption triad. These services would include, but not be limited to: adoption preservation services, therapists sensitive to the issues of adoption, education advocates to assist families to obtain special services, mental health agencies, support groups, respite care, financial services and professional search groups. The Department, through its agent, will maintain a listing of post-adoption services and will make this information available to persons upon request.

- 5) The Department will also provide to any interested adult adoptee, biological parents and siblings information regarding the Illinois Adoption Registry described in Section 309.190 of this Part.

c) Who is Eligible for Post-Adoption Services

Post-adoption services are available to:

- 1) Families who have adopted children for whom the Department of Children and Family Services had legal responsibility immediately preceding the adoption. These families are eligible for the services described in subsections (b)(1), adoption preservation services, (b)(2), adoption assistance, if they meet eligibility criteria, (b)(3), search and ongoing sharing of information, and (b)(4), information and referral.
- 2) Families who adopt children for whom the Department did not have legal responsibility prior to adoption. These families are eligible for the services described in subsections (b)(1), adoption preservation services, and (b)(4) information and referral.
- 3) Biological families of children adopted through the Department. These families are eligible for the services described in subsections (b)(3), search and ongoing sharing of information, and (b)(4) information and referral.

Section 309.190 Adoption Registry

- a) Effective with the establishment of an Adoption Registry under the

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auspices of the Department of Public Health, the Department of Children and Family Services shall ensure the provision of specific Adoption Registry services. The address of the Adoption Registry is as follows:

The Adoption Registry
Illinois Department of Public Health
605 W. Jefferson
Springfield, Illinois 62702-6553
(217) 782-6553

b) The services shall consist of:

- 1) providing written notification to the biological parents who wish to surrender a child for purposes of adoption which describes the Adoption Registry, the process for recording their names with the Adoption Registry, the procedures for sharing identifying information with the child who was surrendered for adoption, and the process for changing the decision to share or refuse to share identifying information;
- 2) helping the biological parents complete a written statement of intent when a child is voluntarily surrendered for purposes of adoption. The statement shall record:
 - A) the biological parents' desire to have identifying information shared with the adopted child at a later date and a method for contacting the biological parents; or
 - B) the biological parents desire not to have identifying information revealed; or
 - C) that no decision has been reached at this time;
- 3) helping the biological parents record their names with the Adoption Registry for the purpose of sharing identifying information with their biological children who were surrendered for adoption;
- 4) helping the adopted child, when the child has attained the age of 18, record his or her name with the Adoption Registry for the purpose of sharing identifying information with his or her biological parents;
- 5) recording specific non-identifying information about the biological parents as required by the Adoption Act [750 ILCS 50/18.4] in the case record. This information shall be given to the prospective adoptive parents when the child is placed for adoption and to the adopted child, upon request, when the child has attained the age of 18;
- 6) providing identifying information to mutually consenting parties when a written request is received by the Department of Children and Family Services. If there is an Information Exchange Authorization form on file with the Adoption Registry, this form also must permit the exchange of such information; and
- 7) other services as authorized by 89 Ill. Adm. Code 302.40,

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Department Service Goals.

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1) Heading of the Part: Services Delivered by the Department2) Code Citation: 89 Ill. Adm. Code 3023) Section Numbers: Proposed Action:

302.300

Repeal

302.305

Amend

302.315

Repeal

4) Statutory Authority: 20 ILCS 505

5) A Complete Description of the Subjects and Issues Involved: The Department is repealing the Sections of 89 Ill. Adm. Code 302 which deal with adoption services because it is proposing a new part, 89 Ill. Adm. Code 309, Adoption Services for Children for whom the Department of Children and Family Services Is Legally Responsible, which is devoted exclusively to adoption services. The Sections being repealed are being incorporated into the new Part 309. In addition, Section 302.305, Adoption Listing Service for Hard to Place Children or Children with Disabilities, is being limited to children for whom the Department is not legally responsible. Requirements for an adoption listing service for children who are the legal responsibility of the Department are contained in the new Part 309.

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
302.20	Amend	April 11, 1997 (21 Ill. Reg. 4350)
302.30	Amend	April 11, 1997 (21 Ill. Reg. 4350)
302.40	Amend	April 11, 1997 (21 Ill. Reg. 4350)
302.310	Amend	April 11, 1997 (21 Ill. Reg. 4350)
302.320	Amend	April 11, 1997 (21 Ill. Reg. 4350)
302.330	Amend	April 11, 1997 (21 Ill. Reg. 4350)
302.Appendix B	Amend	April 11, 1997 (21 Ill. Reg. 4350)

10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

11) Time, Place, and Manner in which interested persons may comment on this

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Proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham
Chief, Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, IL 62701-1498
(217) 524-1983
TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: For profit adoption agencies who are serving children who are not the legal responsibility of the Department.

B) Reporting, bookkeeping or other procedures required for compliance: Voluntary reporting of hard to place children or children with disabilities to the Adoption Listing Service of Illinois.

C) Types of professional skills necessary for compliance: None required.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for the rulemaking was not anticipated at the time of the last two regulatory agendas.

The full text of the proposed amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE DEPARTMENT

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Definitions
302.20	Introduction
302.30	Department Service Goals
302.40	Functions in Support of Services
302.50	

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for <u>Hard-to-Place Children or Special-Needs Children with Disabilities</u> for Whom the Department is Not Legally Responsible
302.310	Adoption Assistance Agreements
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.370	Homemaker Services

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maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. _____, effective _____.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.300 Adoptive Placement Services (Repealed)

- a) Adoptive placement services are provided to children for whom family preservation or reunification efforts are unsuccessful or inappropriate. The child's need for a stable, nurturing and permanent home which meets the physical and emotional needs, and best interests of the child is the paramount factor which shall be considered when selecting an adoptive resource. The constitation of adoptive placement services includes:
 - 1) placement of the child and arranging for adoption assistance, if indicated; and
 - 2) supervisory visits to evaluate the child's adjustment in the adoptive home prior to the legal finalization of the adoption; and
 - 3) ongoing counseling after finalization of adoption. This counseling is provided at the family's request for up to 3 months. However, it may be provided for a longer period if the family wants it and the Department determines that additional counseling is needed.
- b) The child's needs and best interests shall be the primary consideration when exploring adoptive resources for a child. When selecting an adoptive placement for a child, the factors to be considered may include, but are not limited to:
 - 1) the wishes of the child who demonstrates the maturity and cognitive ability to participate in the decision;
 - 2) the physical, mental, and emotional needs of the child;
 - 3) the child's need for stability and continuity of relationship with parent figures;
 - 4) the interaction between the child and the prospective adoptive parent;
 - 5) the prospective adoptive parent's ability to meet the physical, mental, and emotional needs of the child; and
 - 6) the child's cultural, ethnic and racial background and the ability of prospective adoptive parents to meet the needs of a child with this background.
- c) Single parent adoptive placements are considered viable adoptive resources for children where the children's needs can be met by placement with a single parent.
- d) When there is documentation that a child's developmental and emotional needs for continuity of care or stability can be met best through adoption by the current caretaker(s), the planning should proceed to

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- 302.380 Information and Referral Services
- 302.390 Placement Services (Repealed)
- 302.400 Successor Guardianship
- 302.405 Subsidized Guardianship Program

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

- Section
- 302.500 Purpose
- 302.510 Implementation of the Family Preservation Act
- 302.520 Types of Intensive Family Preservation Services
- 302.530 Phase In plan for Statewide Family Preservation Services
- 302.540 Time Frames

- APPENDIX A Acknowledgement of Mandated Reporter Status (Recodified)
- APPENDIX B Calculating the Amount of Adoption Assistance

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired on July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1003, effective January 1, 1997, for a

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adoption-finalization:

- e) Court-ordered--adoptive--home--studies--shall--be--conducted--by--the Department--for--adoptions--arranged--by--entities--other--than--child--welfare agencies--only--when--the--order--emanates--from--an--Illinois--Court.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 302.305 Adoption Listing Service for Hard-to-Place Children or Special Needs Children with Disabilities for Whom the Department is Not Legally Responsible

- a) The Department or its agent shall maintain coded listings which include:

- 1) the names and addresses of all persons who have applied for and have been approved for the adoption of a hard-to-place child or special-needs child with a disability; and
- 2) the names of hard-to-place children or children with disabilities special-needs-children--as--specified--in--Section--302.310--(b) below who have not been placed for adoption.

- b) Adoption agencies who provide services to children who are not the legal responsibility of the Department are encouraged to voluntarily submit the names and addresses of all persons who have been approved for the adoption of hard-to-place children or children with disabilities the--applicants and the names of such children to the Department's agent, Adoption Information Center of Illinois, for inclusion in the coded listing. The address and phone number of the Adoption Information Center is: The--Department--shall--provide--for address--and--phone--number--of--the--Adoption--information--center--of--Illinois--to--all--inquirers:

Adoption Information Center of Illinois
188 W. Randolph, Suite 600
Chicago, Illinois 60601
(800) 572-2390

- c) The Department or its agent shall make the coded listings available without--charge--to--every--adoption--agency--in--the--state--in--a--format which--in--accordance--with--89--Ill--Adm--Code--4317--protects--the confidentiality--of--the--persons--seeking--to--adopt--and--of--the--child--not yet--placed--for--adoption:

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 302.315 Adoption Registry (Repealed)

- a) Effective--with--the--establishment--of--an--Adoption--Registry--under--the auspices--of--the--Department--of--Public--Health--the--Department--of

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Children--and--Family--Services--shall--ensure--the--provision--of--specific Adoption--Registry--services:

- b) The services shall consist of:

- 1) providing written notification describing the adoption-Registry process--and--services--available--to--the--biological--parent--or parents--who--wish--to--surrender--a--child--for--purposes--of--adoption--the--process--includes--recording--the--parent(s)--names--with--the Adoption--Registry--procedures--for--sharing--identifying--information with--the--child--who--was--surrendered--for--adoption--whether--adopted or--not--and--the--process--for--changing--the--decision--to--share--or refuse--to--share--identifying--information;
- 2) helping--the--biological--parent--or--parents--complete--a--written statement--of--intent--when--a--child--is--voluntarily--surrendered--for purposes--of--adoption--The--statement--shall--record:
 - A) the biological parent or parents' desire to have identifying information shared with the child at a later date and a method for contacting the biological parent or parents;
 - B) the biological parent or parents' desire not to have identifying information revealed; or
 - C) that no decision has been reached at this time?

- 3) helping--the--biological--parent--or--parents--record--their--names--with the--Adoption--Registry--for--the--purpose--of--sharing--identifying information--with--their--biological--children--who--were--surrendered for--adoption?
- 4) helping--the--adopted--or--unadopted--child--when--the--child--has attained--the--age--of--18--record--his--or--her--name--with--the--Adoption Registry--for--the--purpose--of--sharing--identifying--information--with his--or--her--biological--parents?

- 5) recording--specific--non-identifying--information--about--the biological--parents--as--required--by--AN-ACF--in--relationship--to--the adoption--of--persons--and--to--repeal--an--act--therein--named--(Ill. Rev. Stat. 1980 Supp. ch. 407 par. 1522.4) in the case record. This information shall be given to the prospective adoptive parents when the child is placed for adoption and to the adopted or unadopted child, upon request, when the child has attained the age of 18; and

- 6) providing--identifying--information--to--mutually--consenting--parties when--a--written--request--is--received--by--the--Department--of--Children and--Family--Services--If--there--is--an--information--Exchange Authorization--form--on--file--with--the--Adoption--Registry--this--form also--must--permit--the--exchange--of--such--information--and other--services--as--authorized--by--Section--302.407

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Pre-licensing and Continuing Education

2) Code Citation: 50 Ill. Adm. Code 3119

3) Section Numbers: Proposed Action:

3119.30 Amendment

3119.40 Repealed

3119.45 Amendment

3119.60 Amendment

4) Statutory Authority: Implementing Section 494.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/494.1 and 401].

5) A Complete Description of the Subjects and Issues Involved: The Department will require continuing education providers to report rosters of individuals who have successfully completed their education courses on computer diskette. The primary issue of concern to the Department is whether all providers currently have the capability to transfer information onto a diskette. Many providers are already voluntarily furnishing a diskette to the Department with the information now being required by this Part. For those providers who do not have the programming capability that will be necessary to comply with this Part, the Department intends to make available a formatted diskette which can be filled in by a "fill in the blank" process. The information transferred onto the diskette will be the same as if the provider were typing the information onto a paper roster.

In addition to the new electronic filing requirement, the Department will also require producers to keep their own record of the courses they have completed. These records must include the name of the provider, the course title and the date of completion. The purpose of this requirement is to reduce the telephone calls to the Department asking for this type of information.

And finally, the type of course content that is allowed as credit for continuing education is being expanded to include management, customer service, and sales. With the increase in the number of insurance producers required to take continuing education and with the wide range of experience the producers have, the licensed insurance producers have asked for the types of courses available for continuing education to be expanded. The expansion of content areas should make the course requirement more meaningful to more producers.

The proposed changes have been reviewed by the PIAI and the ILUA (professional producer associations) and both have agreed to the proposed changes.

6) Will this proposed amendment replace emergency rule currently in effect?

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No

7) Does this amendment contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Denise Hamilton

Rules Unit Supervisor

Department of Insurance

320 West Washington

(or)

Springfield, IL 62767

(217) 785-8560

John Palombi

Staff Attorney

Department of Insurance

320 West Washington

Springfield, IL 62767

(217) 782-8216

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Providers and insurance producers will be required to comply with these proposed amendments.

B) Reporting, bookkeeping or other procedures required for compliance: Providers will need to comply with the revised requirements found in Section 3119.30(e) and insurance producers will need to comply with the revised requirements found in Section 3119.45(b).

C) Types of professional skills necessary for compliance: Pursuant to the proposed requirements found in Section 3119.30(e), providers will be required to electronically file a list identifying students who have successfully completed a course. Providers will need to have basic data entry skills.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Department did not anticipate doing these amendments before July 1997.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
 CHAPTER I: DEPARTMENT OF INSURANCE
 SUBCHAPTER II: INSURANCE PRODUCER, LIMITED INSURANCE
 REPRESENTATIVES AND REGISTERED FIRMS

PART 3119
 PRE-LICENSING AND CONTINUING EDUCATION

Section	Purpose
3119.10	Definitions
3119.20	Provider Responsibilities
3119.30	Responsibilities of Applicant for Insurance Producer Licenses and
3119.40	Licensed Insurance Producers Until 1/1/97 (Repealed)
3119.45	Responsibilities of the Applicant for Insurance Producer Licenses and
	the Licensed Insurance Producers Beginning 1/1/97
3119.50	Pre-licensing - Course of Study Requirements
3119.60	Continuing Education Requirements
3119.70	Course and Provider Disqualification
3119.80	Severability
EXHIBIT A	REQUEST FOR CERTIFICATION OF A PRE-LICENSING COURSE
EXHIBIT B	REQUEST FOR CERTIFICATION OF A CONTINUING EDUCATION COURSE
EXHIBIT C	PROVIDER LIST - PROOF OF COMPLETION FOR PRE-LICENSING EDUCATION
EXHIBIT D	PROVIDER LIST - PROOF OF COMPLETION FOR CONTINUING EDUCATION
EXHIBIT E	COURSE OF STUDY - LIFE
EXHIBIT F	COURSE OF STUDY - ACCIDENT/HEALTH
EXHIBIT G	COURSE OF STUDY - FIRE
EXHIBIT H	COURSE OF STUDY - CASUALTY/MOTOR VEHICLE

AUTHORITY: Implementing Section 494.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/494.1 and 401].

SOURCE: Adopted at 9 Ill. Reg. 80, effective January 1, 1985; amended at 15 Ill. Reg. 69, effective January 1, 1991; amended at 16 Ill. Reg. 126, effective January 1, 1992; amended at 18 Ill. Reg. 16568, effective November 1, 1994; amended at 20 Ill. Reg. 10340, effective July 19, 1996; amended at 21 Ill. Reg. _____, effective _____.

Section 3119.30 Provider Responsibilities

- Each provider shall submit a certification form to the Director for each course it intends to offer for pre-licensing or continuing education credit. Certification must be on a form as prescribed by either Exhibit A or B of this Part, whichever is applicable.
- Each provider shall submit a new certification form when there is a significant change in the course.
- Each provider shall maintain a copy of all instructional materials for each course. If the provider ceases to offer a course or makes a

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significant change in course materials, the provider shall maintain the original material for one year from the date such course was terminated or significantly changed.

- Each provider shall maintain the following records for three years at a central location:

- 1) Classroom or seminar - roster for each classroom course or seminar identifying the instructor(s), the student, the course, the location, the date and hours of attendance, the completion date, the examinations and the results of any examinations administered.

- 2) Self-study or interactive computer - name of student, name of course, date of completion, the examinations, the results of examinations, and other applicable proof of completion.

- Each provider shall provide to the Director a list of students who have successfully completed a pre-licensing or continuing education course. The list shall be in a format and contain the information as prescribed by the Director. The information shall be submitted to the Director on computer diskette or other electronic method of transfer prescribed by the Director and in the specifications established by the Director. ~~required-by-3119-Exhibit-C-or-Exhibit-D-of-this-Part-~~ Each list shall be received by the Director within ten days following the end of the week in which the course was completed. The list shall be compiled pursuant to the criteria established in Section 3119.50(b) and (d) or Section 3119.60(d) of this Part.

- Instructors shall meet the following minimum requirements: either a Bachelor's degree or three years experience in the course subject matter. Providers must maintain evidence of such qualifications while the instructor is actively engaged in instructing the course and for one year thereafter.

- Providers shall, upon the request of the Director, provide a copy of all course material, provider records, and evidence of instructor's qualifications to the Director. All such requests shall be subject to a warrant of the Director and for the express purpose of gauging compliance with the Illinois Insurance Code and Departmental regulations pertaining thereto.

- The Director may make arrangements, including contracting with an outside service administrator, for the purpose of administering and collecting the educational data from the providers. Under such an arrangement all, or a portion of the reporting requirements of the provider shall be made to the servicing administrator.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 3119.40 Responsibilities of Applicant for Insurance Producer Licenses and Licensed Insurance Producers Until 1/1/97 (Repealed)

- Applicants-for-insurance-Producer-Licenses

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Prior to taking the licensing examination each applicant shall complete the pre-licensing education requirements for each class of insurance for which an examination is being taken. The pre-licensing education course must be used within one year of completion.

b) Licensed Insurance Producers

1) Each producer shall complete at least 25 hours of continuing education requirements prior to requesting an extension of an insurance producer license. The producer should complete the course no later than four weeks prior to the license extension date to allow time for the provider to submit proof of completion to the Director.

2) Hours taken, course material provided, or presented in whole or in part, or in conjunction with a pre-licensing course which is not certified as a pre-licensing education requirement shall not be used to meet continuing education requirements.

3) Courses initiated or completed prior to the original issue date of the license shall not be used to meet continuing education requirements.

4) Each producer may carry forward a maximum of 25 credit hours received by the Department and the credit must be used prior to the second renewal date after completion of the course. The credit hours will be used in the order they are received by the Department.

5) Each producer shall maintain proof of credits for a period of 5 years after date of original issue.

(Source: Repealed at 21 Ill. Reg. _____, effective _____)

Section 3119.45 Responsibilities of the Applicant for Insurance Producer Licenses and the Licensed Insurance Producers Beginning 1/1/97

a) Applicants for Insurance Producer Licenses

Prior to taking the licensing examination each applicant shall complete the pre-licensing education requirements for each class of insurance for which an examination is being taken. The pre-licensing education course must be used within one year after completion.

b) Licensed Insurance Producers

1) Each producer shall complete 15 hours of continuing education requirements prior to requesting an extension of an insurance producer license. The producer should complete the course no later than four weeks prior to the license extension date to allow time for the provider to submit proof of completion to the Director. Each producer shall maintain a record of each course completed for four years from the date of completion. The record shall include the name of the provider, the course title, and the date of completion.

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2) Hours taken, course material provided, or presented in whole or in part, or in conjunction with a pre-licensing course which is not certified as pre-licensing education requirement shall not be used to meet continuing education requirements.

3) Courses initiated or completed prior to the original issue date of the license shall not be used to meet continuing education requirements.

4) The credit hours will be applied in the order they are received by the Department.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 3119.60 Continuing Education Requirements

a) The certification form must be received by the Director at least 30 days prior to any course being offered.

b) For purposes of this Section, "full credit" shall mean the amount of time, as certified by the provider that is necessary for a student to study for and pass an examination, or in the case of a course with no examination, the number of documented classroom attendance hours.

c) Courses shall be intended to increase the knowledge and understanding of insurance principles and coverages, applicable laws, and insurance regulations, agency management, customer service and sales. Marketing, motivation, prospecting and psychology may be included if such material is incidental to and an integral part of the course. No be considered as incidental, the number of hours may not exceed 50% of the total number of hours devoted to acceptable basic course material. The following courses shall not be considered for continuing education:

1) Courses used for insurance pre-licensing training or insurance qualifying examination preparation.

2) Courses teaching general business, general accounting, management, communication, computer operation and other courses whose subject matter does not increase the knowledge of insurance principles and coverages, applicable laws, and insurance regulations.

23) Courses with less than three hours of certified continuing education credit.

d) The value of course credit for purposes of this Section shall be determined as follows:

1) Supervised Examinations

A) Successful Completion

Students who successfully complete a supervised examination will receive full credit for the course.

B) Unsuccessful Completion

Students who do not successfully complete a supervised examination shall receive one hour of credit for each hour

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of documented classroom attendance not to exceed 50% of full credit.

- 2) Non-Supervised Examination
 - A) Successful Completion
Students who successfully complete a non-supervised examination will receive full credit for the course.
 - B) Unsuccessful Completion
Students who do not successfully complete a non-supervised examination will receive no credit.
- 3) Courses Without Examination
Students will receive credit for documented attendance based on the certified hours assigned to the course.
- 4) All Examinations
 - A) No students shall evaluate their own examination. The evaluation of the examination must be completed by the provider.
 - B) No provider shall furnish the answers to an examination prior to the student completing the examination.
 - C) Credit shall be given based only upon the results of the examination the first time the examination is completed by the student.
- 5) TLTC and LTCP Training Credit
 - A) Continuing education credit may be earned based on the criteria established in this subsection (d) ~~of this Section~~.
 - B) Training credit may be obtained after a failed examination if the provider gives, and the student successfully completes, a substantially different examination.
 - C) If a student receives training credit only, the provider shall issue a proof of completion certificate to the student but the certificate shall be prominently stamped "NO CON-ED CREDIT".
- e) No additional credit will be given to a producer for a repeated course unless three years have passed since credit was given for the course.
- f) Until January 1, 1997, the maximum credit a producer can receive for any one course is 25 hours.
- g) After December 31, 1996, the maximum credit for any course is 15 hours.
- h) Continuing education instructors may receive continuing education credit or courses they teach. The credit earned shall be determined pursuant to the criteria established in this Section.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Clinical Psychologist Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1400
- 3) Section Numbers:

1400.20	<u>Proposed Action:</u>
1400.30	Amendment
1400.40	Amendment
1400.60	Amendment
1400.70	Amendment
1400.75	New Section
1400.90	Amendment
- 4) Statutory Authority: Clinical Psychologist Licensing Act [225 ILCS 15]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will bring rules for the licensing of clinical psychologists into conformity with Public Act 89-702, the sunset reauthorization of the Act, effective July 1, 1997. These proposed rules clarify what constitutes supervision while applicants obtain their clinical experience and clarifies that the work history shall be from enrollment in a doctoral program rather than from completion of a baccalaureate degree. References to "Committee" are changed to "Board" throughout the rules to reflect the statutory changes. Section 1400.75 adds a new Section on fees due to the deletion of fees from the Act; the proposed fees are identical to those contained in the previous statutory fee Section.
- 6) Will these proposed amendments replace emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Jean A. Courtney
Department of Professional Regulation
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/782-7645

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All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing clinical psychological services.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: Clinical psychological skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Amendment(s) begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 58: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1400

CLINICAL PSYCHOLOGIST LICENSING ACT

Section	
1400.10	Statutory Authority (Repealed)
1400.20	Licensure Qualifications
1400.30	Experience Defined
1400.40	Application for Examination
1400.50	Examination
1400.60	Endorsement
1400.65	Renewals
1400.70	Restoration
1400.75	Fees
1400.80	Unethical, Unauthorized, or Unprofessional Conduct
1400.90	Granting Variances

AUTHORITY: Implementing the Clinical Psychologist Licensing Act [225 ILCS 15] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 5 Ill. Reg. 935, effective January 15, 1981; codified at 5 Ill. Reg. 11057; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 400 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1400 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2972; emergency amendment at 13 Ill. Reg. 2519, effective February 8, 1989, for a maximum of 150 days; emergency expired July 8, 1989; amended at 14 Ill. Reg. 4515, effective March 12, 1990; amended by adding Section 1400.20(b)(10) and (c)(2)(H) and Section 1400.30(a)(4), (b)(4) and (c)(5) at 14 Ill. Reg. 12735, effective July 30, 1990; amended at 18 Ill. Reg. 11191, effective June 30, 1994; expedited correction at 19 Ill. Reg. 989, effective June 30, 1994; amended at 20 Ill. Reg. 7868, effective May 30, 1996; amended at 21 Ill. Reg. _____, effective _____.

Section 1400.20 Licensure Qualifications

An individual applying for licensure as a clinical psychologist pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15] (the Act) shall meet the following educational/experience requirements pursuant to Section 10 of the Act:

- In accordance with Section 10(3)(a) of the Act, the individual shall be a graduate of a doctoral program in clinical, school or counseling psychology accredited by the American Psychological Association or

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approved by the Council for the National Register of Health Service Providers in Psychology and shall complete two years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.30(a) and (d) of this Part, one of which shall be an internship and one of which shall be postdoctoral.

b) In accordance with Section 10(3)(b) of the Act, the individual shall be a graduate of a doctoral program that is equivalent to a clinical, school or counseling psychology program and shall complete two years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.30(a) and (d) of this Part, one of which shall be an internship and one of which shall be postdoctoral.

1) In determining equivalent programs, the following minimum standards shall be met:

- A) The program is from a regionally accredited university, college or school;
- B) The program constitutes the university, college or school's clinical, school or counseling psychology program as certified by the dean of the institution and includes a practicum as defined in Section 1400.30(b). (If there is an additional clinical, school or counseling program that exists under the clinical, school or counseling psychology name, the applicant shall apply under Section 10(5) of the Act and subsection (c) of this Section);
- C) The program, wherever administratively housed, must be clearly identified and labeled as a psychology program. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;
- D) The program is an organizational entity within the institution;
- E) The program has an integrated, organized sequence of study;
- F) The program has an identifiable core psychology faculty on-site and a psychologist responsible for the program;
- G) The program has an identifiable body of students who are matriculated in that program for a degree;
- H) The program encompasses a minimum of three academic years of full-time graduate study;
- I) The program has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows:
 - i) 30 semester hours taken on a full-time or part-time basis at the institution, accumulated within 24 months; or
 - ii) A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the

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psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.

2) the applicant's program shall include the 7 ~~seven~~ core content areas pursuant to Section 10(3)(B) of the Act as set forth below:

- A) Scientific and professional ethics in psychology, which include the standards set forth in Section 1400.80(k) and (l);
- B) Biological basis of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;
- C) Cognitive-affective basis of behavior such as learning, thinking, motivation, emotion;
- D) Social basis of behavior such as social psychology, group processes, organizational and systems theory;
- E) Individual differences which includes instruction in theories of normal and abnormal personality functioning;
- F) Assessment which includes instruction in clinical interviewing and the administration, scoring and interpretation of psychological test batteries for the diagnosis of mental abilities and personality functioning;
- G) Treatment modalities which includes instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders.

c) In accordance with Section 10(5) of the Act, the individual shall be a graduate of a doctoral psychology program or a graduate of a doctoral program that is psychological in nature; complete a course in each of the 7 core content areas listed in Section 10(3)(b) of the Act; complete a practicum in accordance with Section 1400.30(a) and (b) of this Part; complete an internship or equivalent supervised clinical experience in accordance with Section 1400.30(a) and (c) of this Part; and complete two years of supervised clinical psychology experience in accordance with Section 1400.30(a) and (d) of this Part, one of which must be postdoctoral.

1) The applicant's doctoral program shall meet the following requirements:

- A) The program is accredited by the Association of State and Provincial Psychology Boards or Council for the National Register of Health Service Providers in Psychology and is not a designated clinical or counseling psychology program; or
- B) The program is psychological in nature as determined by the Department of Professional Regulation (Department) upon the recommendation of the Clinical Psychologists Licensing and Disciplinary Board Committee (the Board Committee). In

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determining what program is psychological in nature, the Board ~~Committee~~ shall consider:

- i) A program that is from a regionally accredited institution of higher education;
 - ii) A program, wherever administratively housed, that is clearly identified and labeled as offering psychology programs. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;
 - iii) A program that is an organizational entity within the institution;
 - iv) A program that has an integrated, organized sequence of study;
 - v) A program that has an identifiable core psychology faculty on-site and a psychologist responsible for the program;
 - vi) A program that has an identifiable body of students who are matriculated in that program for a degree;
 - vii) A program that encompasses a minimum of three academic years of full-time graduate study;
 - viii) A program that has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows: 30 semester hours taken on a full-time or part-time basis at the institution accumulated within 24 months; or
A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.
- 2) The applicant shall complete a course in each of the 7 core content areas pursuant to Section 10(3)(b) of the Act as set forth below:
- A) Scientific and professional ethics in psychology set forth in Section 1400.80(k) and (l);
 - B) Biological basis of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;
 - C) Cognitive-affective basis of behavior such as learning, thinking, motivation, emotion;
 - D) Social basis of behavior such as social psychology, group

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processes, organizational and systems theory; individual differences which includes instruction in theories of normal and abnormal personality functioning; Assessment which includes instruction in clinical interviewing and the administration, scoring and interpretation of psychological test batteries for the diagnosis of mental abilities and personality functioning; Treatment modalities which includes instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders.

d) For the purposes of this Section, course shall be defined as an integrated, organized didactic sequence of study which encompasses a minimum of one school term. No independent study courses may be used to satisfy the 7 core content areas set forth in Section 10 of the Act and subsections (b)(2) and (c)(2) of this Section.

e) Remediation of Deficiencies

- 1) Individuals who are deficient in any of the 7 core content areas may complete any one or all of these courses in a clinical, school or counseling psychological program accredited by the American Psychological Association, approved by the Council for the National Register of Health Service Providers in Psychology or a program approved in accordance with subsection (b) above.
- 2) Individuals who are deficient in the practicum, internship or equivalent supervised clinical experience, or clinical experience requirements may obtain this experience in accordance with the standards set forth in Section 1400.30 of this Part.
- 3) The applicant will be required to submit proof to the Department that he or she has completed such a course(s) and/or the experience. Documentation shall include, but not be limited to, curriculum/course syllabus, transcript(s), practicum, and program materials; internship handbook/brochures and course materials; and internship training plan.
- 4) The deficiency(s) may be completed at any time.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1400.30 Experience Defined

The following sets forth standards for practicums, internships or equivalent supervised experience and the 2 years of supervised experience required for licensure as a clinical psychologist pursuant to Section 10 of the Act and Section 1400.20 of this Part:

- a) Practicums, internships or equivalent supervised experience and the 2 years of supervised experience:
 - 1) Shall be experience obtained after enrollment in a doctoral psychology program.

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- 2) Shall involve the practice of clinical psychology as defined in Section 2(5) of the Act. Illustrative tasks are: assessing, diagnosing and treating individuals with mental, emotional, behavioral or nervous disorders or conditions, or individuals with developmental disabilities.
- 3) Shall not be limited to repetitious and routine tasks which, although involving psychological activities, are at the pre-professional level. Tasks illustrative of pre-professional experience are: administering and scoring structured tests; conducting standardized interviews; collecting data; academic guidance counseling; and assisting in a laboratory or teaching situation.
- 4) Shall not be supervised experience in which the supervisor receives monetary payment or other considerations from the supervisee or in which the supervisor is hired by or otherwise employed by the supervisee.
- b) Practicum. In addition to the requirements set forth in subsection (a) above, the applicant's practicum (externship or clerkship) shall:
 - 1) Be a part of the coursework in the doctoral program or be an equivalent 400 hours of coursework or training completed with a grade of satisfactory or better in a new area of competence under the Act. However, failure of the licensing examination disqualifies one as a supervisor.
 - 2) Be performed pursuant to the order, control and full professional responsibility of the supervisor who shall meet with the applicant face-to-face for a minimum of 40 hours.
 - 3) Be a minimum of 400 hours in duration. This 400 hours does not have to take place in a single setting.
 - 4) Not count toward the two years of supervised experience required for licensure.
 - 5) Clearly delineate between practicum, internship and supervised work experience, using identifiable dates at the time of application.
- c) Internship. To meet the requirements of internship in accordance with Section 1400.20 or equivalent supervised clinical experience in an organized health care setting pursuant to Section 10(5) of the Act and Section 1400.20(c) of this Part, the internship or clinical experience shall, in addition to the requirements set forth in subsection (a) above:
 - 1) Be an organized pre-planned training program (in contrast to supervised experience or on the job training) designed to provide

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- the applicant with a pre-planned, programmed sequence of training experiences which includes documented goals and objectives. The primary focus and purpose is assuring breadth and quality of training.
- 2) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant. There must also have been at least two additional hours per week in learning activities such as case conferences, including cases in which the intern was actively involved; seminars dealing with clinical issues; co-therapy with a staff person, including discussion; group supervision; and additional individual supervision.
 - 3) Involve the applicant in direct clinical psychology services to the client (Section 2 of the Act) as a part of the training experience.
 - 4) Be under the individual and personal supervision of a licensed clinical psychologist or a licensed psychologist who is engaged in clinical psychology whose license is active and in good standing (i.e., no disciplinary action in accordance with Section 15 of the Act).
 - 5) Be performed pursuant to the order, control and full professional responsibility of the supervisor.
 - 6) Include a minimum of 1750 hours completed within 24 months. The 1750 hours may not be completed in less than 50 weeks regardless of the number of hours worked per week.
 - A) Full-time experience shall be at least 35 hours per week and shall be obtained in a single setting for a minimum of 6 months.
 - B) Part-time experience will only be counted if it is 18 hours or more per week for a minimum of 9 months and is in a single setting.
 - 7) Be post-practicum (post-clerkship or post-externship) level.
 - 8) The experience must be evaluated by the supervisor as satisfactory or better.
 - 9) If experience takes place in a work setting, there should be a distinction between the regular work duties of the applicant and the internship or equivalent clinical experience.
 - 10) May include both paid and unpaid experience obtained by the applicant.
 - d) Clinical Experience. To meet the experience requirements of Section 10 of the Act, the experience shall in addition to the requirements set forth in subsection (a) above:
 - 1) Contain/include clinical psychology experience, at least one year of which must be post-doctoral. Practicum experience may not be counted toward fulfilling the 2 years of supervised experience.
 - A) A year of experience is defined as 1750 hours obtained in not less than 50 weeks and completed within a 36 month

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period.

- B) Full-time work experience must be obtained in a single setting for a minimum of 6 months with at least 35 hours per week.
- C) Part-time experience will only be counted if it is 18 hours or more a week for a minimum of 9 months and is in a single setting.
- D) Post-doctoral experience may begin upon completion of degree requirements for the doctoral degree, if verification of the date of completion of the degree requirement, when different from the date of graduation, is certified to the Department by the appropriate administrative official of the applicant's educational institution.
- 2) Be personally and individually supervised by a licensed clinical psychologist or a licensed psychologist who is engaged in the practice of clinical psychology whose license is active and in good standing (i.e., no disciplinary action in accordance with Section 15 of the Act). The experience must be performed pursuant to the order, control and full professional responsibility of the supervisor.
- 3) Be evaluated by the supervisor as satisfactory or better.
- 4) Be obtained prior to the date of the examination. Applicants completing the required experience after the examination date will be considered for the next examination. All supervised experience completed prior to the application date shall be listed on the application in order to be considered.
- 5) May include both paid and unpaid experience obtained by the applicant.
- 6) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1400.40 Application for Examination

- a) An applicant shall file an application on forms supplied by the Department at least 90 days prior to an examination date. The application shall include:
 - 1) Certification of receipt of a doctoral degree as defined in Section 1400.20 of this Part and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;
 - 2) Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was

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obtained pursuant to Section 1400.30 of this Part. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant pursuant to Section 1400.30 of this Part;

- 3) A complete work history since enrollment in the doctoral program completion-of-a-baccalaureate-degree; and
- 4) The required fee set forth in Section 1400.75 of this Part Section-24(i)-of-the-Act.
- b) In addition to the above documents, candidates applying under Section 1400.20(b) and (c) shall submit documentation as required in Section 1400.20 (b) and (c) of the practicum and internship training.
- c) Applicants who are graduates from educational institutions outside the United States shall provide, in addition to those requirements listed above, a certified translation of all documents submitted in any language other than English.
- d) In addition, the applicant shall cause to be sent directly to the Department certification of the date of completion of degree requirements, if different from date of the awarding of such degree, by the certifying educational administration official, for computation of post-doctoral experience as provided for in Section 1400.30 of this Part.
- e) Each application shall be reviewed on an individual basis by the Board Committee in accordance with this Section.
- f) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board Committee because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking a license will be requested to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appear for an oral interview(s) before the Board Committee.
- g) Upon recommendation by the Board Committee and approval by the Department the applicant shall be notified of eligibility to sit for the examination or notified of the reasons for denial of the application.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1400.60 Endorsement

- a) Any person who is currently licensed in another state or territory of the United States or a foreign country desiring to obtain a license as a licensed clinical psychologist pursuant to Section 11 of the Act shall file an application with the Department, on forms provided by the Department, which shall include:
 - 1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been

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licensed, stating:

- A) The date of issuance of the applicant's license;
- B) The basis of licensure and a description of the examination by which the applicant was licensed, if any; and
- C) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;

2) A complete work history since enrollment in the doctoral ~~completion-of-a-baccalaureate-degree~~ program;

3) Certification of graduation from a psychology program, as defined in Section 1400.20 of this Part,⁷ and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;

4) ~~A copy of the Act and rules from the state of origin--licensure that were in effect at the time of licensure~~

45) Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was obtained pursuant to Section 1400.30 of this Part. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant pursuant to Section 1400.30 of this Part; and

56) The required fee specified in Section 1400.75 of this Part ~~24(3) of the Act.~~

b) Any person currently licensed in the United States or Canada desiring to obtain a license as a licensed clinical psychologist under the provisions for senior psychologists who have been licensed for at least 20 years pursuant to Section 11 of the Act shall file an application with the Department that shall include:

- 1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, stating:

A) The date of issuance of the applicant's license and the level of licensure;

B) The basis of licensure and a description of the examination by which the applicant was licensed, if any;

C) If multiple levels of practice are licensed, that the license is at the highest level of practice in that jurisdiction; and

D) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;

2) Proof that the applicant has been actively and lawfully licensed to practice clinical psychology in another state or Canada for at least 20 consecutive years and that such license(s) has never been disciplined by another state or Canada. An applicant whose license has been disciplined by another jurisdiction shall not be eligible nor shall the applicant be issued a license pursuant to

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this subsection (b); however, such applicant's credentials may be reviewed pursuant to subsection (a) or by examination;

3) Verification of a doctoral degree in psychology from a college, university or school that was regionally accredited in the jurisdiction in which it is located by a body recognized by the Council on Postsecondary Accreditation at the time the degree was granted and an official transcript;

4) A complete work history since licensure as a psychologist; and

5) The required fee specified in Section 1400.75 of this Part ~~Section 24(3) of the Act.~~

c) Each application shall be reviewed on an individual basis by the Board ~~Committee~~ in accordance with this Section. The Department or Board may request from the applicant a copy of the Act and Rules from the state of original licensure that were in effect at the time of licensure.

d) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Department or the Board ~~Committee~~, because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking a license will be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an oral interview(s) before the Board ~~Committee~~.

e) Upon recommendation of the Board ~~Committee~~ and approval by the Department, the applicant shall be notified of eligibility to sit for the examination, issued a license by endorsement or notified of the reasons for denial of the application.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1400.70 Restoration

a) A person seeking restoration of a license which has lapsed or been on inactive status for less than five (5) years shall have it restored upon payment of the required fees specified in Section 1400.75 of this Part ~~24(6) of the Act.~~

b) A person seeking restoration of his/her license which has lapsed or been on inactive status for more than five years shall file a completed application, on forms supplied by the Department, with the required fee set forth in Section 1400.75 of this Part ~~24(6) of the Act~~. The applicant shall also be required to either:

1) Submit certification of current licensure from another jurisdiction and verification of active practice in that jurisdiction; or

2) Submit proof of one year of study completed within the past five (5) years in an approved educational program in accordance with Section 1400.20 of this Part; or

3) Submit verification of six months of full-time supervised experience, as described in Section 1400.30(a) of this Part; or

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- 4) Pass the examination as set forth in Section 1400.50 of this Part.

c) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Department, because of discrepancies or conflicts in information, the need for further clarification, and/or missing information, the person seeking restoration of his license will be requested to:

- 1) provide such information as may be necessary; and/or
- 2) explain such relevance or sufficiency during an oral interview; or

3) appear for additional oral interview(s) before the Board Committee when the information available to the Board Committee is insufficient to evaluate the individual's current competency to practice under the Act. Upon the recommendation of the Board Committee and approval of the Director, an applicant shall have his license restored.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1400.75 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees.

1) The fee for application for a license by examination or acceptance of examination as a clinical psychologist is \$50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

2) The application fee for a license as a clinical psychologist certified or licensed under the laws of another state, a territory of the United States or a foreign country or province is \$100.

3) The application fee for a license as an association or partnership to practice clinical psychology is \$50.

b) Renewal Fees. The fee for the renewal of a license shall be calculated at the rate of \$80 per year.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license which has been lost or

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destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is \$20.

4) The fee to have the scoring of an examination administered by the Department reviewed and verified is \$20.

5) The fee for a wall certificate showing licensure shall be the actual cost of producing such certificate.

6) The fee for a roster of persons licensed as clinical psychologists in this State shall be the actual cost of producing such a roster.

(Source: Added at 21 Ill. Reg. _____, effective _____)

Section 1400.90 Granting Variances

a) The Director may grant variances from this Part ~~these rules~~ in individual cases where he/she finds that:

1) The provision from which the variance is granted is not statutorily mandated;

2) No party will be injured by the granting of the variance; and

3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Clinical Psychologists Licensing and Disciplinary Board Committee of the granting of such variance, and the reasons therefor, at the next meeting of the Board Committee.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Program Content and Guidelines for Division of Specialized Care for Children
- 2) Code Citation: 89 Ill. Adm. Code 1200
- 3) Section Numbers: Adopted Action:
1200.10 Amendments
1200.20 Amendments
1200.30 Amendments
1200.40 Amendments
1200.50 Amendments
1200.60 Amendments
1200.70 Amendments
1200.80 Amendments
1200.90 Amendments
1200.110 Amendments
1200.Appendix A Amendments
1200.Appendix B Amendments

- 4) Statutory Authority: Implementing Section 1 of the Specialized Care for Children Act [110 ILCS 345] and authorized by Section 1 of the University of Illinois Act [110 ILCS 305].

- 5) A Complete Description of the Subjects and Issues Involved: Addition to encourage the development of comprehensive systems of care for children with special healthcare needs; to change "disabled children" to "children with disabilities"; to make medically necessary diagnostic services accessible to families by supporting needed transportation costs; to change the limit of continuation of a treatment plan from six months after the child's 18th birthday to the child's 21st birthday; to clarify conditions under which treatment services and financial support can be provided when LRAs are not residents of Illinois; to make an adjustment in the Income Scale to reflect 65% of gross median income instead of the current 58%. Deletion of reference to the Illinois Comprehensive Health Insurance Program. Addition of reasons LRAs may lose financial assistance. Clarification of circumstances when the financial eligibility period may be decreased. Deletion of statement regarding reimbursement for minor occasional costs of a Recipient Child's treatment. Clarification of payment for drugs. Addition of statement regarding negotiation of payment amounts for services in out-of-state facilities. Clarification of treatment facilities providing in-hospital, inpatient care. Changes in the Income and Range II payment scales.

- 6) Will these proposed amendments replace emergency rules currently in effect? No

- 7) Does this amendment contain an automatic repeal date? No

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- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: None

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted, within 45 days after this publication in the Illinois Register, to:

Robert Biehl
Director of the Division of
Specialized Care for Children
2815 West Washington, Suite 300, Box 19481
Springfield, Illinois 62794-9481
(217)793-2350 Fax: (217)793-0773

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: A Regulatory Agenda was not submitted.

The full text of the Proposed Amendments begins on the next page.

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- 2) For further descriptions of available DSCC information and DSCC information dissemination techniques, see DSCC Internal Operating Rules (2 Ill. Adm. Code 5155).

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.20 Definitions

Adjusted Family Income: The amount equal to the family's annual Total Income as defined in Section 1200.50(d)(2) less allowable expenses as determined pursuant to Section 1200.50(d)(3).

Advisory Board: As established in Section 2 of the Act, physicians or surgeons appointed by the University of Illinois Board of Trustees who advise the University of Illinois and the Division on qualifying for Federal funds, make recommendations to the University and the Division regarding the provision of services to disabled children with disabilities, and consult with the Division and the University regarding general policy considerations.

Allowable Expenses: Deductions from the annual Total Income as specified in Section 1200.50(d)(3).

Amenable to Treatment: Reasonable medical certainty of long term developmental improvement in health status or function as determined by the treating physician.

Annual Total Income: The amount of a family's income determined pursuant to Section 1200.50(d)(2).

Applicant: One applying for DSCC eligibility. The term as used in this Part refers to the child.

Assistive Appliance: Equipment intended to support, replace or augment a dysfunctioning or non-functioning part of the body. Such appliances -- which may be mechanical, structural or electrical -- are intended to support specific rehabilitative objectives determined by the child's health care providers.

Authorized Services: Direct medical care and related care for a Recipient Child, as more completely set forth in Section 1200.80(e) of this Part, which DSCC staff has approved provided for payment.

Child with Disability: An individual below the age of 21 who has a physical impairment or an organic disease, function, defect, or condition which may hinder the achievement of normal growth and/or development.

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Chronic Condition: Condition which is expected to be long lasting or to be lifelong.

Completed Application: A signed and dated request for program benefits made by the LRA on a form specified by the agency which contains current, accurate and relevant information in every space required by the form.

Consent: An agreement by a Legally Responsible Adult to a certain course of action involving him/herself or his/her Recipient Child. Such consent will only be valid when the consenting person:

has been informed by the physician(s) treating a Recipient Child of such foreseeable risks, results, and alternatives to a proposed medical procedure as a reasonable medical practitioner of the same school, in the same or similar circumstances, would make known to his/her patients;

agrees in writing to the performance of the procedure for which consent was sought;

has been informed that the granting of consent is voluntary and may be revoked at any time.

~~Disabled--Child--An individual--below the age of 21--who has a physical impairment--or an organic disease--function--defect--or condition--which may hinder the achievement of normal growth and/or development--~~

Diagnostic Services: Those medical services which provide information necessary to determine a child's medical eligibility for participation in the DSCC treatment program, i.e., whether an Applicant has a Medically Eligible Condition. See Section 1200.40 of this Part. Diagnostic Services shall also include any initial interviews provided as a part of the application process.

Emergency: A medical situation requiring immediate medical care and services to avoid loss of life, permanent loss of good health, or permanent degradation of state of health.

Field Clinic: A community-based clinic which meets on a periodic basis for the purpose of diagnosis and treatment. Such clinics are organized and operated by DSCC and utilize DSCC approved providers.

Financial Participation Agreement (FPA): The agreement between DSCC and the Legally Responsible Adult(s) which specifies the family's monetary obligation to pay for a specified portion of approved direct medical care and/or related care for their Recipient Child, which agreement must be signed prior to receiving DSCC benefits. This

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amount is determined according to the Payment Scale, Appendix B, of this Part and through the rules established in this Part.

Full Financial Assistance: When DSCC pays, to the extent provided for in this Part, for all of a Recipient Child's DSCC authorized services not covered by the family's insurance. To determine eligibility see Section 1200.50 of this Part.

Health Care Facility: Any Diagnostic and Treatment Facility within the contemplation of Section 1200.110(a) and any Outpatient Therapy Center within the contemplation of Section 1200.110(b) of this Part.

Health Care Professional: Any individual or corporation licensed or certified to provide health care services to a patient and practicing in a commonly recognized field of knowledge. The term shall include but shall not be limited to Physicians and Other Health Care Professionals as defined in Section 1200.100(a)(3).

Health-Care-Facility: Any Diagnostic and Treatment Facility within the contemplation of Section 1200.110(a) and any Outpatient Therapy Center within the contemplation of Section 1200.110(b) of this Part.

Health Care Provider: Any Health Care Professional, Health Care Facility, or any Medical Equipment Supplier within the meaning of Section 1200.110(c) of this Part.

Income: Money received by an Applicant, Recipient Child, or his family which can be applied directly to meet basic needs for food, shelter, and medical expenses. Total income is defined at Section 1200.50(d)(2) of this Part. Adjusted family income, i.e., net income, is figured by reference to Section 1200.50(d)(3) of this Part.

Income Scale: The schedule, adjusted for family size, used to determine financial eligibility.

Individual Service Plan: A document describing a child's health and developmental status which serves as a basis for a plan of specific services and monitoring. The plan is developed by the DSCC professional staff based upon the demonstrated health care needs of the child and the availability of services to meet those needs.

Legally Responsible Adult (LRA): A person who is legally required to provide for and entitled to make decisions about the DSCC service Applicant or Recipient Child. This person may be a parent (biological or adoptive) or legally appointed guardian. The LRA may also be the DSCC service Applicant or Recipient Child under the following circumstances:

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If he/she has been emancipated in accordance with the provisions of the Emancipation of Mature Minors Act [750 ILCS 30] ~~that~~ **Rev-Stat-1991-ch-40-par-2201-et-seq-7** provided that the order of emancipation ~~contains~~ **ch-40-par-2201-et-seq-7** that the Applicant or Recipient Child is empowered to act in the manner required.

If he/she is authorized to consent to health care services in accordance with the Consent by Minors to Medical Procedures Act [410 ILCS 210] ~~that~~ **Rev-Stat-1991-ch-40-par-4501-et-seq-7**.

If he/she is over the age of 18 years and has the legal capacity to act in the manner required, provided that, if any Applicant or Recipient Child is partially or wholly financially dependent on his/her parents or guardian, the parents or guardian shall be considered the LRA for purposes of making financial determinations hereunder. Medical consent is required from only one Legally Responsible Adult in the event that the Recipient Child or Applicant is not legally entitled to consent.

Medically Eligible Condition: That medical condition which renders the child eligible for DSCC services. Specific conditions are enumerated at Section 1200.40 of this Part.

Parent: The biological or adoptive parent of the Applicant or Recipient Child receiving or seeking DSCC services.

Partial Financial Assistance: The amount that DSCC pays over and above the amount for which the family is obligated and over and above the amount which is covered by insurance.

Payment Scale: The schedule indicating an amount the family is expected to contribute toward the medically related costs of care for their Recipient Child during a twelve ~~12~~ month period. This contribution is required from all families who have not been categorized as fully financially eligible.

Principal Medical Condition: The medical condition which exerts the most pervasive impact on the child's function, state of health or well-being or anatomic structure. Usually the condition which requires the most immediate and extensive medical attention at the time.

Programmatic Assistance: A process undertaken by professional staff of the Division on behalf of children with Medically Eligible Conditions, which may include procedures for evaluation of the child's condition, development of an Individual Service Plan, recommendations of health care providers and facilities, assistance in arrangement of

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such care, and subsequent monitoring of the status of the child and family. The level of programmatic assistance required will be based on the medical needs of the child as determined by usual and customary medical standards.

Recipient Child: A child who is currently receiving DSCC services or whose Health Care Providers are being paid, in whole or part, by DSCC.

Referral: A procedure by which any person can introduce a child to the DSCC program. See Section 1200.80(c)(5)(A) and (B) of this Part.

Reimbursement Agreement: Written agreement signed by the LRA(s) and/or attorney(s) for the LRA or eligible child specifying that any money recovered as judgment or settlement of a lawsuit or from an insurance or personal settlement arising from a claim relating to the child's medical condition for which DSCC is providing care or reimbursing Health Care Providers will be used to reimburse DSCC for its payment of the child's medical and related care costs, which funds will then be replaced into the DSCC program and used to further benefit eligible children.

Resident(s) of Illinois:

Any person living in the State of Illinois with the intent to remain in the State indefinitely. The term "living in the State of Illinois" shall be limited to all persons whose primary domicile is located within the State. Intent to remain indefinitely is established through a showing that a person has significant contacts with the State of Illinois as evidenced by indicia thereof, such as maintaining a bank account in the State, registering to vote in the State, paying Illinois income taxes, obtaining permanent employment within the State, owning real estate within the State, and possessing an Illinois driver's license or similar permits; or

Any person who is present in the State of Illinois for the purpose of performing migrant agricultural labor and who evidenced a pattern of regularly returning to the State to perform such work or who expresses an intention to establish a pattern of regularly returning to the State to perform such work. Migrant agricultural labor is defined as agricultural work of a seasonal or temporary nature which requires that the worker be away from his/her permanent place of residence to perform said work more than overnight. A pattern of regularly returning to the State to perform such work shall be considered to have been established if a person is present in the State of Illinois to perform migrant agricultural work for two successive growing seasons; or

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Any person who is an active duty member of the U.S. military and on official military assignment within the State of Illinois, whether or not they maintain residence in another state, or any person who is an active duty member of the U.S. military on official military assignment in another state or country who pays Illinois income taxes.

Retroactive Authorization: Authorizations which occur, under specified circumstances, after medical service has been provided to a Recipient Child. See Section 1200.80(c)(5) for enumeration of the circumstances in which this will be considered.

Retroactive Financial Eligibility: Financial eligibility which reaches back no more than 30 days prior to the date of completed application. See Section 1200.50(c)(7)(A) and (B).

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.30 Eligibility: General

a) Program Purpose

The purpose of the Illinois Division of Specialized Care for Children is to provide diagnostic and treatment services for children who are disabled as a result of congenital and/or acquired states or have a condition which may lead to disability. The objective is to provide a program of comprehensive evaluation, medical care and related rehabilitative services appropriate to their various needs and to financially support such care to the extent that their Legally Responsible Adults (LRAs) require such financial assistance as determined by the Financial Eligibility Criteria (Section 1200.50 of this Part). Children who are eligible for Programmatic Assistance only will be served without regard to a financial means test. Due to financial limitations, DSCC will only provide assistance to children with certain categories of disabling conditions as defined in Section 1200.40 of this Part.

b) Eligibility Criteria for Diagnostic Services

- 1) Initial diagnostic services are provided without regard to ability to pay to the extent medically necessary applying usual and customary medical standards to determine whether the child has one of the conditions enumerated in Section 1200.40, Medically Eligible Conditions. Whenever eligibility or ineligibility is established based upon an interview with the child or the LRA, which occurs when a diagnosis has already been established, DSCC shall not be required to provide further initial medical diagnostic services.
- 2) Children may be but need not be referred for said services by an individual or agency.

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- 3) To make medically necessary diagnostic services accessible to families, DSCC will support needed transportation costs.

c) Eligibility Criteria for Other DSCC Services

1) Programmatic Assistance

To be eligible for Programmatic Assistance a child must meet the following requirements:

- A) Be under 21 years of age;
- B) Be a Resident of Illinois;
- C) Have a Medically Eligible Condition.

2) Treatment Services and Financial Support

It is recognized that it is the duty and responsibility of the LRAs to pay for necessary health care services for their children. DSCC will assist the LRA with this responsibility by providing treatment services and financial assistance, provided the LRAs are Residents of Illinois, and provided the child:

- A) Be under 18 years of age (except that DSCC shall provide services beyond the child's 18th birthday when necessary to complete a treatment plan developed before that time if cessation of treatment would cause an immediate threat to or damage to the child's life or good health or would negate gains resulting from previous rehabilitative efforts. In no event may said extension continue beyond six months after the child's 21st 18th birthday);
- B) Be a Resident of Illinois;
- C) Have a Medically Eligible Condition; and in addition:
 - i) The LRAs are lawfully admitted to the United States on a visa or permit which contemplates that the LRA will be entitled to permanently remain in the United States or has been admitted under color of law; or
 - ii) The child aforedescribed is a United States citizen.

- 3) In addition, whenever payment for treatment services or financial support is desired, the LRA must:

- A) Meet the financial eligibility criteria set forth at Section 1200.50 of this Part;
- B) Make maximum use of insurance benefits, if any, as well as any other form of payment, (such as trust funds, gifts, or fund raising drives) available for the child and/or make the payments toward the support of the child's treatment as are determined by his or her FPA;
- C) Sign a Reimbursement Agreement, if the injuries for which treatment is sought were caused by any alleged negligent act (including products liability) whenever litigation is pending or contemplated.
- 4) Further, any attorney retained to represent the child on any claim relating to the child's medical condition for which DSCC will provide care must separately sign the Reimbursement Agreement. Failure to comply with this requirement will not, however, delay or hinder the application process.

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- 5) When the LRAs are not residents of Illinois, treatment services and financial support can be provided for a limited period of time only when all the following conditions are met:

- A) The child remains a resident of Illinois;
- B) The child's LRAs were residents of Illinois at the time the child was registered with DSCC;
- C) An active DSCC supported treatment plan for the child's eligible condition was in progress at the time the LRAs left Illinois;
- D) Discontinuation of treatment would result in probable harm to the child or an adverse outcome of treatment; and
- E) Legal action is in progress that will establish legal guardianship of the child with a person or agency located in Illinois.

d) Application Process: Initial and Continuing Eligibility

- 1) No person participating in or wishing to participate in the Division's programs shall be denied benefits of the program or shall be discriminated against on the basis of sex, religion, race, color, national origin or handicap not related to program eligibility.

- 2) General responsibilities of Applicants, Recipient Children, and LRAs:

- A) Applicants/Recipients and LRAs requesting assistance shall furnish requested factual information regarding eligibility and shall keep DSCC informed of any changes in financial status (defined as any change in financial circumstances which would affect financial eligibility for DSCC benefits as set forth in Section 1200.50 including, but not limited to changes in family size, income, or expenses).

- B) The application process requires consent by the LRA(s) to release or to verify medical data and financial information provided as a part of the application process.

- 3) An LRA shall complete and sign a written application on behalf of the Applicant on forms specified by DSCC. DSCC shall inform the Applicant of all relevant time deadlines with respect to filing of an application and appealing any adverse decision. An LRA may choose a person to assist in completing the application. A representative of a public agency may complete and sign the application for a child in that agency's custody. A representative of a private agency may complete and sign the application for a child if he/she is the authorized guardian for the child.

- 4) A completed application must be submitted to DSCC within the following time periods:

- A) In all cases, a completed application for initial financial eligibility must be received by DSCC within ~~thirty~~ 30 days from the date of services for which assistance is desired. Applications not received within the said 30 day

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period shall be processed for reimbursement of treatment services provided no more than 30 days prior to the actual date of receipt. This time period shall be adjusted by DSCC for good cause if DSCC is notified of the circumstances within the 30 day time period (for purposes of this clause, "good cause" shall include, but shall not be limited to, a family emergency, demonstrated delays caused by the U.S. Postal Service, and demonstrated delays caused by the Internal Revenue Service in providing a copy of an income tax return).

B) Applications for continuing financial eligibility must be received by DSCC within the current period of eligibility. If an application is received after said eligibility time period, continuing eligibility shall recommence no more than ~~thirty~~-30 days prior to the date the application is actually received by DSCC.

5) If financial support is desired, the LRA shall complete and sign a financial application on behalf of the Applicant on forms specified by DSCC, which shall be submitted within the time periods specified in Section 1200.30(d)(4).

A) Such statement shall include a copy of the LRA's most recent filed federal income tax return. If an LRA is not required to file with the Internal Revenue Service, verification of income must be submitted.

B) DSCC shall accept other supporting documents from the LRA to verify level of income if DSCC determines that the documents provided prove the information sought and if the LRA has demonstrated diligence in attempting to obtain federal tax returns or pay stubs but has been unsuccessful in doing so.

C) DSCC shall accept supporting documentation from the LRA that reflects financial eligibility for services being provided by or reimbursed by the Illinois Department of Public Aid (IDPA) or any other State ~~state~~ agency using criteria the same as or more stringent than DSCC.

6) If financial support is not desired, no financial application is required. Applicants with a Medically Eligible Condition who either do not desire or do not qualify for DSCC financial support shall be eligible for Programmatic Assistance.

7) Determination of eligibility is performed at the regional offices. (See 2 Ill. Adm. Code 5155.Appendix A.)

A) The DSCC staff shall verify the information provided on behalf of the Applicant. This may include discussion, including an interview with the LRA, if the application is not complete. The interview shall be conducted at a place and time convenient to all parties.

B) If supplemental information required by DSCC to determine eligibility is not provided within ~~thirty~~-30 days after the LRA receives notice of a requirement that the ~~said~~

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information is needed to complete this application, DSCC shall then advise the LRA that the application will be invalidated and not given further consideration unless the LRA was precluded, due to causes beyond his/her control, from providing the information required.

C) A written decision regarding eligibility shall be sent to the LRA and any referring medical care provider or referring agency within ~~thirty~~-30 days after receipt of the completed application unless the emergent nature of the child's condition requires a decision in a more timely fashion.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.40 Medical Eligibility

a) Eligible Medical Conditions

1) Within the resources available, the Division of Specialized Care for Children has determined that it can best serve children who: have disabling impairments that are expected to be chronic; involve multiple physical defects/disabilities/handicaps; are amenable to treatment as determined by the treating physician; have a need for long-term highly specialized medical care including, as necessary, related habilitative services; and in the judgement of the treating physician have life expectancy sufficient to realize benefit from the treatment.

2) Currently, DSCC serves children whose disabling impairments are enumerated in the list which follows. These conditions were determined as covered by the Director, in consultation with and upon advice of the Advisory Board.

b) Medically Eligible Conditions

1) ORTHOPEDIC IMPAIRMENTS which are defined as those affecting bone, joint or muscle are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy, which are determined to be chronic orthopedic impairments amenable to treatment requiring long-term management involving specialist care and required related habilitative or rehabilitative services.

2) NERVOUS SYSTEM IMPAIRMENTS which are defined as those affecting the brain, spinal cord or peripheral nerves, and present as persistent or recurring loss of consciousness, coordination, strength or sensation, but not cognitive or emotional disability, are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma,

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toxicity, disease or malignancy, which are determined to be chronic neurologic impairments responsive to medical treatment requiring long-term management involving specialist care and required related rehabilitative services. Children in a chronic vegetative state would be eligible upon medically determined emergence of recovery and sufficient health stability for a program of active habilitation to be instituted (for purposes of this clause, a chronic vegetative state is defined as a condition in which a child displays no evidence of progressive positive developmental or neurological improvement, as determined by usual and customary medical standards).

- 3) **CARDIOVASCULAR IMPAIRMENTS** which are defined as primarily affecting the heart and the larger blood vessels are eligible. Such impairments may be of congenital or acquired origin, the latter representing a persisting result of previous infection, trauma, toxicity or disease or malignancy, and which are determined to be a chronic cardiovascular impairment responsive to treatment requiring multispecialist intervention and a program of extended supervision and/or long-term active management, specialized medical care and such related habilitation services as may be necessary. Children with a disease or past infection known to primarily affect the heart and/or larger blood vessels which predispose to chronic heart and/or larger blood vessels impairment and which requires specialist management to minimize or preclude such impairment would be eligible.

- 4) **EXTERNAL BODY IMPAIRMENTS**, including the oral and nasal structures with their extension into the mouth, pharynx, larynx, major bronchi and esophageal structures, defined as significant defects affecting the skin and/or its underlying structures and defects of the mucosa and/or its underlying structures of the above internal parts which may affect breathing, speech and eating. Such impairments must be determined to be beyond the normal range of acceptable external appearances or adequate function, as determined by a medical specialist, responsive to specialist(s) intervention and a program of long-term management with related habilitation services or subject to correction which would preclude chronic physical or functional impairment, and may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, disease, trauma, toxicity or malignancy. External body defects to be considered as beyond the normal range of accepted appearance are those defects considered to be major in the customary characterization of congenital defects or, if acquired, to be defects which fall outside of acceptable appearance as defined by the Division in consultation with its advisers. Defects of dentition and occlusion associated with severe oro-craniofacial structural deformities or if causative to impairment of intelligible speech are included.

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- 5) **HEARING IMPAIRMENTS** which are defined as a loss of hearing or deafness of at least 30 decibels in two frequencies or a 35 decibel loss in one speech frequency involving one or both ears, as determined by audiometric testing are eligible. Such hearing loss may be of congenital origin, or may be a manifestation of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy and which are determined to be chronic hearing impairments responsive to treatment requiring otologic intervention and a program of extended supervision and/or long-term active management. Children with middle ear infection and/or middle ear effusion persisting for longer than three months and who have received medical treatment are eligible for special medical and hearing assessment and evaluation of communicative skills. If a hearing impairment is defined, otologic treatment, monitoring of communicative skills and provision of hearing aids shall be provided if determined medically necessary in accordance with usual and customary standards. Children considered to be profoundly deaf and not amenable to otologic intervention and/or hearing aids, as determined through the application of usual and customary medical standards, shall be eligible for assistance to enhance the communication skills of the child (and family) if such assistance is not available from other agencies or sources.
- 6) **SPEECH IMPAIRMENTS** which are defined as an impairment of intelligibility arising from any structural defect of the organs responsible for vocalization or neurological defects specific to orderly speech development are eligible. Such speech impairments may be of congenital origin, or may be manifestations of an active chronic disease, or represent a persisting result of previous infection, trauma, disease or malignancy determined to be responsible for the chronic speech impairment which is responsive to medical treatment requiring long-term management involving specialist care and related rehabilitative services and equipment. Developmental language deficits are not eligible (for purposes of this clause, a developmental language deficit is defined as a condition, as determined by the application of usual and customary medical standards, that can be expected to correct itself with maturation or with such therapy as is generally available through the public school system).
- 7) **CYSTIC FIBROSIS**. Children with cystic fibrosis are eligible if they manifest symptoms amenable to specialized medical care and long-term management by a team of specialists organized for this purpose.
- 8) **HEMOPHILIA** and similar chronic defects of coagulation or chronic hemorrhagic conditions are eligible. Eligibility for services shall be established in accordance with Rules of the Illinois Department of Public Health under the Hemophilia Care Act [410 ILCS 420] (Ill.-Rev.-Stat.-1993, ch.-III-1/2, pars.-2900-et-seq-)

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~~and--Rules--promulgated--thereunder~~ 7 [77 Ill. Adm. Code 705]. Eligible persons shall receive such services as may be provided by the Illinois Department of Public Health in accordance with those the rules ~~are~~ ~~described~~. DSCC shall provide children case management and financial support of hospitalization, outpatient care and such additional services as may be required for specialized medical and related rehabilitative services, including home management, except that a Recipient Child not eligible for services from the Illinois Department of Public Health as provided above shall receive required services through the Division.

9) INBORN ERRORS OF METABOLISM which are defined as those newborn conditions leading to severe neurological, mental and physical deterioration for which there are acceptable treatments which, when promptly instituted, would preclude or significantly minimize the adverse effects of the metabolic defect are eligible.

10) EYE IMPAIRMENTS which are defined as those affecting the eye and/or eye muscles, but excluding isolated refractive errors, are eligible. Such impairments must lead to or cause a significant risk of loss of vision and be chronic impairments which are determined to be responsive to treatment requiring medical or surgical ophthalmologic, ~~medical-or-surgical~~, intervention and a program of extended supervision and/or long-term active management. In determining whether an eye impairment may be responsive to a program of extended supervision and/or long-term active management, the following factors must be present: that without treatment, the condition would be expected to last at least six months; and that extended and long-term active management shall require medical supervision of at least six months. Such impairments may be of congenital origin, or may be a manifestation of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity or disease. When required as part of an approved management program not involving services or equipment prohibited by Section 1200.80(a) and approved pursuant to Sections 1200.80(b) and (c), and prescribed by the managing ophthalmologist, treatment of associated refractive errors is eligible. Children considered to be blind and not amenable to ophthalmologic intervention, as determined through the application of usual and customary medical standards, are not eligible under this category.

11) URINARY SYSTEM IMPAIRMENTS which are defined as those chronic organic impairments affecting the kidney, ureter, bladder, and/or urethra, but excluding urinary tract infections, and isolated ureteral urinary reflux unless associated with a persistent structural defect, are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous

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infection, trauma, toxicity, disease or malignancy, which are determined to be chronic, amenable to treatment requiring long-term medical or surgical management involving specialist care and related rehabilitative or rehabilitative services. Children requiring chronic renal dialysis and/or renal transplantation are not eligible under this category.

c) Health care services defined as "well child care," routine medical and dental treatment, medical care of acute childhood illnesses (defined as diseases which are not normally chronically disabling and which are not unusual in the course of a child's maturation) or trauma or short-term complications related thereto, are not provided by DSCC. Health care services for children whose impairment is considered to be "acute" as an immediate associated consequence of infection, trauma, disease, toxicity or malignancy, would be considered eligible after completion of medical treatment of such acute condition and determination of a resulting persisting disability.

e) Care Beyond Medical Eligible Conditions

Children with the chronic disabilities which are defined in this Section as Medically Eligible Conditions may have associated health impairments which, as isolated health impairments, would not be considered as medically eligible for DSCC services. However, in order to achieve successful treatment of the eligible condition, if medically recommended, the services required to treat such associated health impairments will be provided to Recipient Children, except those related to a malignancy or to a chronic vegetative state. Treatment of such associated health impairments must be necessary for successful treatment of the Medically Eligible Condition and will continue to be provided only so long as the Recipient Child has a Medically Eligible Condition which is under continuing and active medical treatment. Further, if at any time, one of these other than Medically Eligible Conditions becomes the Recipient Child's principal medical condition, these additional services will be discontinued.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.50 Financial Eligibility

a) The LRA has an obligation to meet the cost of medical care for his/her Recipient Child to the extent they are able. Full or partial financial assistance, in the form described in Section 1200.90 of this part, is provided to LRAs who are unable to meet such expenses from their own resources as established through a Financial Need Determination performed pursuant to criteria established in subsections Section-1200-50(c) and (d) of this Section.

b) Exceptions to Financial Need Determination

1) DSCC provides diagnostic services necessary to determine medical eligibility without regard to the economic status of an

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Applicant's LRAs.

2) Financial information is not required from LRAs when:

- A) medical eligibility is uncertain;
- B) no expenditure of DSCC funds is anticipated;
- C) the child is a ward of the State state agency which is financially responsible for the child's medical care;
- D) the child has been determined eligible for services being provided by or reimbursed by a State state agency using criteria the same as, or more stringent than, DSCC. However, if such LRAs elect to provide financial information and complete a DSCC Financial Need Determination, they may do so and the period of eligibility established will be determined in accordance with subsection (c)(7) below.

c) Criteria for Financial Assistance

- 1) Financial eligibility is based upon the financial status of the LRA requesting financial assistance.
- 2) The Income Scale (Appendix A) and the Payment Scale (Appendix B) are used to determine financial eligibility. The Income Scale represents 58% of the gross median family income adjusted for family size as developed for the State of Illinois by the U.S. Department of Health and Human Services, Family Support Administration under the provisions of Section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Although this scale is derived from gross income figures, for purposes of financial eligibility, a family is placed on the scale according to its Adjusted Family Income and family size.
- 3) Full financial assistance (Range I assistance) is provided when the Adjusted Family Income considering family size is equal to or less than that which is allowable in accordance with the Income Scale. The LRA and attorney must submit a Reimbursement Agreement, if applicable, as provided in Section 1200.30(c)(3)(C).
- 4) Partial financial assistance (Range II assistance) is provided when the Adjusted Family Income considering family size exceeds the amount allowable on the Income Scale, subject to the following conditions:
 - A) A determination that the annual family payment as established in the Payment Scale is less than the anticipated cost of services for the proposed period of eligibility;
 - B) Completion of a Financial Participation Agreement (FPA) by the LRA. An FPA will be required whenever the LRA of a Recipient Child is eligible for partial financial assistance. The FPA shall be signed and returned to DSCC within thirty 30 days after of its receipt by the LRA.
 - i) The FPA obligates an LRA to pay for DSCC approved care for the Recipient Child. The amount will be equal to

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the annual family payment described by the Payment Scale. DSCC will use this money to pay for the child's direct and related care.

- ii) The FPA shall cover all Recipient Children in one family.
- C) Submission of a Reimbursement Agreement by the LRAs and attorney(s), as provided in Section 1200.30(c)(3)(C), if applicable.
- D) Adjustments to the annual family payment shall be made by DSCC if there is evidence in the application or through additional information that indicates the LRA has the ability to assume cost-sharing beyond the amount previously indicated based upon application of the financial eligibility criteria in this Section 1200.50.
- 5) The LRA shall be determined Range III [ineligible for financial assistance from DSCC] when:
 - A) It is determined that the Adjusted Family Income is in excess of \$10,499 of that which is allowable in accordance with Appendix A, the Income Scale.
 - B) An LRA has failed within the time periods established in Section 1200.30(d) to provide sufficient information to determine eligibility. In such instances, eligibility shall commence up to 30 days prior to the postmark-date-07 if unavailable, the date of receipt of a new application with such information sufficient necessary to establish eligibility.
 - C) An LRA has failed within the time period established in Section 1200.30(d) to complete and sign the application (including the financial application), the Reimbursement Agreement (Section 1200.30(c)(3)(C)), if applicable, and an FPA, if applicable (Section 1200.50(c)). In such instances, eligibility shall commence up to 30 days prior to the postmark-date-07 if unavailable, the date of receipt of a new the signed application, and/or Reimbursement Agreement, and/or FPA.
 - B) ~~the family is fully enrolled in the Illinois Comprehensive Health insurance Program or a Health Maintenance Organization (HMO) which has responsibility for provision of medical care for the Applicant or Recipient Child. However, families with HMO coverage are eligible for financial assistance to the extent that the HMO has no responsibility for such care.~~

- D) ~~ET~~ In addition, the LRAs shall lose their financial assistance if:
 - i) Medical insurance payments or other forms of payment available or paid directly to the LRA to meet the cost of care for the Recipient Child have not been applied to the cost of care arranged, authorized, and paid by

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DSCC for that child. In such instances, the LRA may reapply for assistance upon repayment to DSCC of an amount equal to the medical insurance payments made available but not applied toward the child's cost of care.

ii) An LRA has not complied with the payment schedule established in the FPA with DSCC. In such instances, the LRA may reapply for assistance once the required payment has been made to DSCC.

iii) An LRA fails to notify DSCC within ~~thirty~~-30 days of any change in the child's medical insurance which results in medical coverage for costs which are currently paid for by DSCC.

iv) An LRA fails to submit a Reimbursement Agreement in accordance with Section 1200.30(c)(3)(C), if applicable.

v) ~~It~~ It is determined that the LRA has in any way falsified documents used to determine eligibility.

6) LRAs determined to be wholly or partially ineligible shall be advised of the right to appeal the determination in accordance with the procedures as set forth in Section 1200.60.

7) Period of Financial Eligibility

A) Financial eligibility shall be established for a period of up to ~~twenty-four~~-24 months commencing no sooner than ~~thirty~~-30 days prior to the date a completed application is received by DSCC if applicants are able to provide current federal tax information. For purposes of this Section, current federal tax information shall be defined as the tax information for the calendar year prior to the year of application; or

B) Financial eligibility shall be established for a period of up to twelve ~~(2)~~ months commencing no sooner than ~~thirty~~-30 days prior to the date a completed application is received by DSCC under the following circumstances:

i) Applicants able to provide federal tax information not older than one ~~(1)~~ year prior to the current federal tax information.

ii) Applicants not required to file federal income tax forms as defined by the federal Internal Revenue Service. Income must be verified using two ~~(2)~~ consecutive pay stubs that are within two ~~(2)~~ months of application.

iii) Applicants determined to have a Financial Participation Agreement.

iv) Applicants determined financially eligible on the basis of eligibility for services being provided by or reimbursed by the Illinois Department of Public Aid (IDPA) or any other State agency using criteria

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the same as or more stringent than DSCC.

C) When more than one child in a family is eligible for financial assistance, the period of eligibility for all eligible children will be for the same period.

D) Financial eligibility shall be redetermined subject to the date established at subsection (c)(7)(A) and (B) above.

E) The period of financial eligibility may be decreased ~~less~~ than 12 months under the following circumstances:

i) DSCC financial eligibility was based solely upon eligibility with the Illinois Department of Public Aid (IDPA) or any other State agency as provided in subsection (c)(7)(B) above, and such eligibility has been cancelled. Eligibility for DSCC benefits shall be cancelled at the same time that IDPA or the other State agency eligibility is cancelled. However, if financial eligibility was based upon a full financial application to DSCC and eligibility for assistance from IDPA was coincidental to DSCC eligibility, DSCC eligibility shall not be cancelled when IDPA assistance terminates but shall continue for the remainder of the original period of DSCC eligibility.

ii) The Recipient Child, at the time of financial evaluation, was a ward of an agency or court because adoption had not been finalized, and the adoption is finalized. DSCC eligibility shall terminate on the effective date of the finalization of the adoption.

iii) Supplemental information submitted pursuant to Section 1200.30(d)(2)(A) of this Part causes a change in financial eligibility.

iv) The Recipient Child loses DSCC general or Medical Eligibility. Eligibility for DSCC benefits shall terminate at the time that DSCC general or Medical Eligibility is determined to have been lost.

F) In the event that an LRA submits information, at any time, which, upon verification by DSCC, establishes that the LRA is eligible for financial assistance at a level in excess of that previously approved by DSCC, a new period of eligibility shall begin on the date the ~~said~~ information is received by DSCC, provided that the LRA has met all prior financial obligations to DSCC and signed a new revised FPA, if one is required pursuant to subsection (c)(4)(B).

d) Financial Determination Calculations

1) Family Size

A) Family size shall be determined by the sum of the number of persons in each of the following categories when they share the same household. However, if a person falls into more than one category, that person shall be counted only once:

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- i) The Applicant or Recipient Child;
 - ii) The Applicant or Recipient Child's spouse;
 - iii) An LRA and his/her spouse;
 - iv) Other persons who, for Federal Income Tax purposes, are deemed dependents of the applying LRA.
- 2) The family's annual Total Income shall be the sum of all income of persons comprising the family unit, as determined above but excluding income of dependent children except income of the dependent Applicant or Recipient Child and his/her spouse. Total Income shall include all income as defined by the Internal Revenue Service for federal income tax reporting purposes.
- 3) The following are allowable expenses which the family may deduct from their annual Total Income in determining financial eligibility:
- A) The larger of:
 - i) The federal income tax Standard Deduction Rate based on the LRA's federal income tax filing status used to determine financial eligibility; or ~~or~~
 - ii) The total itemized deductions as reported on Schedule A of the LRA's federal filed income tax return used to determine financial eligibility.
 - B) Child and dependent care costs in accordance with the guidelines established by the Internal Revenue Service for federal income tax reporting purposes.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.60 Appeal Process

- a) Notice of Determination
 - 1) Except as otherwise provided in this Part these Rules, the Division shall notify the Applicant's LRA in writing within ~~thirty--t~~ 30 days after of the receipt of the completed application that the Division has determined that the Applicant is eligible or ineligible, and the amount, if any, of the LRA's required financial contribution to the cost of the Applicant's medical care. If the Applicant or LRA is determined to be ineligible, the Notice of Determination shall state the reasons for the ~~said~~ determination.
 - 2) In the event that DSCC has requested additional information in order to determine eligibility, or has requested the LRA to sign a Reimbursement Agreement or an FPA and the request has not been complied with within the time period set forth in Section 1200.50, DSCC shall notify the LRAs that the application shall be considered inactive and provide the reasons therefor.
 - 3) The Division shall notify a Recipient Child's LRA in writing of any action which the Division intends to take which adversely

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- affects ~~the---LRAs---~~ financial eligibility. This written notification shall provide specific reasons for the action being taken. This written notification shall be sent to the Recipient Child's LRA at least ~~thirty--t~~ 30 days prior to the effective date of the proposed action.
- 4) An explanation of the LRA's right to appeal shall be sent with each Notice of Determination provided pursuant to subsections ~~subsection (a)(1)-(3) immediately-above.~~
 - 5) The Notice of Determination described at subsection ~~(a)(3) immediately-above~~ and all further written notices which bear on it shall be sent by certified or registered mail to the LRA at his/her last known address. If the Applicant or Recipient Child has a designated representative, a copy of all written notices will also be sent to that designated representative.
- b) Right to Reapply
- 1) If the Applicant or Recipient Child's LRA has been determined to be ineligible, they may reapply at any time they believe they have become eligible.
 - 2) If the Recipient Child's financial eligibility has been reduced or has been set at a level less than full financial assistance, the LRAs may submit additional financial information at any time their financial situation changes.
- c) Right to Meeting and Appeal Conference
- 1) The Applicant or Recipient Child's LRA, or designated representative, has a right to a meeting with the DSCC staff person responsible for a decision reflected in any Notice of Determination issued pursuant to subsections ~~subsection (a)(1)-(3).~~
 - A) The request for such a meeting must be made in writing and must identify the decision which is being questioned.
 - B) The request must be made within 14 days after of receipt of the ~~said~~ Notice of Determination.
 - C) DSCC shall contact the requester within five (5) days after of receipt of the request in order to schedule a meeting date, time and place.
 - D) Within seven (7) days after the meeting, DSCC shall notify the Applicant or Recipient Child's LRA of the result of the meeting. Such notification shall be in the manner set forth at subsection ~~subsection (a)(5) immediately-above~~ and shall state the reasons for the decision made.
 - 2) The Applicant or Recipient Child's LRA, or designated representative, has a right to appeal the results of a meeting decision to the Director in a conference with the Director or his/her designee held for that purpose. The Director shall not take part in any original decision or any initial meeting held under subsection (c)(1).
 - A) The request for such an appeal conference must be made in writing and must identify the meeting decision which is

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- being appealed.
- B) The request must be made within 14 days after of receipt of notification of result of the subsection (c)(1) meeting.
- C) DSCC shall contact the requester within five to days after of receipt of the request in order to schedule a meeting date, time and place.
- D) The Director or his/her designee shall consider the decision issued pursuant to subsection (c)(1)(D), any written material presented at the meeting provided for in subsection (c), any evidence presented at the conference, and all other information which the Director or his/her designee obtains through an independent investigation of the issues raised by the appeal.
- E) Within seven to days after the appeal conference, DSCC shall notify the Applicant or Recipient Child's LRA of the result of the appeal conference. Such notification shall be in the manner set forth at subsection (a)(5) above and shall state the reasons for the decision made.
- F) The decision rendered by the Director or his designee is final.
- d) Procedural Rights at Meeting and Conference
The Applicant or Recipient Child's LRA, or designated representative, has the following rights:
- 1) The right at any time to inspect and copy the contents of the Applicant or Recipient Child's case file and any other documents used by DSCC in making its determination or proposing its action; and
 - 2) The right to appear on their own behalf and/or to be represented, advised and/or accompanied by a relative, friend, lawyer or advocate; and
 - 3) The right to present relevant information, witnesses and evidence in any form; and
 - 4) The right to ask questions of the Division staff present.
- e) DSCC may deny or dismiss a meeting or appeal conference if:
- 1) The Applicant or Recipient Child's LRA, or designated representative, withdraws the request for the meeting or appeal conference in writing; or
 - 2) The Applicant or Recipient Child's LRA, or designated representative, fails without good cause (defined as any reason which a prudent person would deem to be an adequate and complete excuse for failure to act, such as emergencies and family deaths) to appear at the scheduled meeting or appeal conference.
- f) Benefits While Awaiting Decision
- 1) LRAs of Applicants who are denied financial assistance benefits may appeal the denial but shall not receive any financial benefits in behalf of the Applicant while awaiting the meeting or appeal conference.
 - 2) LRAs of Applicants who are granted less than full financial

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- assistance may appeal the decision but the LRA in behalf of the Applicant shall only receive such partial financial assistance as originally determined while awaiting the outcome of the said meeting or appeal conference.
- 3) An LRA who is notified of a termination or reduction of financial assistance benefits shall continue at his/her prior level of financial assistance while awaiting the meeting or appeal conference, provided that the LRA requests the said meeting and appeal conference within the time limits designated in subsections subsection (c)(1)(B)(b) and (C)(2)(B).
- g) Effective Dates of DSCC Decisions
- 1) If the decision of a meeting or appeal conference is in favor of an applicant's LRA, the financial assistance benefits determined appropriate as a result of the appeal shall be effective from the date of the completed application.
 - 2) If a Recipient Child's LRA does not appeal, a Notice of Determination of termination or reduction of DSCC benefits, the effective date thereof shall be as provided for in subsection (a)(3).
 - 3) If a Recipient Child's LRA appeals a Notice of Determination of termination or reduction of DSCC benefits, no such termination or reduction shall be effective until ten to days after all appeal rights have been waived or exhausted.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.70 Payment for Services

- a) With respect to Medicaid, Medicare, a Health Maintenance Organization, any other medical insurance plan or policy or other third-party payers, unless prohibited by law, DSCC shall be deemed the payer of last resort. Nothing contained in these regulations shall authorize or require DSCC to provide payment for medical services, hospital services, supplies or appliances which would otherwise be paid by Medicaid, Medicare, a Health Maintenance Organization, any other medical insurance plan or policy or other third-party payers, including donated funds and such other funds available for medical care derived from settlement of injury claims.
- b) Payments for services are subject to the availability of funds as determined by the University of Illinois in its sole discretion.
 - 1) If DSCC determines, based upon its own internal auditing and record keeping systems, at any time, that it does not have or will not have sufficient funds to provide payments for authorized services for additional Applicants, DSCC shall:
 - A) Cease accepting applications.
 - B) Post notices in conspicuous places in DSCC offices and clinics and in other places where such notices are likely to

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be seen by Applicants. The notices shall state that DSCC is no longer accepting applications because of insufficient funds, and shall state the probable date on which DSCC shall again accept applications. Notices will also be posted in a like manner when funding again becomes available.

C) DSCC employees shall inform clinic patients and other persons that DSCC is no longer accepting applications because of insufficient funds, and shall inform such persons of the probable date on which the Division shall again accept applications.

D) Cease authorizing additional health care services for Recipient Children whose LRAs are eligible for DSCC financial assistance.

2) If DSCC determines, based upon its own internal auditing and record keeping systems, at any time that it does not have or will not have sufficient funds to provide payments for authorized services for Applicants who have applied, but with respect to whom no determination of eligibility has been made, DSCC shall nevertheless finish processing those applications and determine the eligibility or ineligibility of each such Applicant and his/her LRA for use in the event that additional funds become available. In such event, the LRAs of eligible applicants shall be provided funding in the order received unless a child's life or good health is threatened in which event the said child's application will be given priority.

3) DSCC shall make payments for authorized services in the order in which DSCC receives bills for such services.

4) If DSCC determines due to nonavailability of funds that it is unable to pay for an authorized service, it shall cancel the authorization ~~and--any-related-purchase-order~~ any time up to the point at which services have been provided. For this purpose, the authorization ~~and-related-purchase-order~~ shall contain the following statement: "This authorization is subject to all of the various rules and procedures set forth at 89 Ill. Adm. Code 1200." In the event any authorization is cancelled pursuant to this limitation, any charges incurred for services rendered after the date of cancellation shall not be the obligation of DSCC.

5) Except as otherwise specifically provided herein in the event that DSCC determines that it does not or will not have sufficient funds to provide payments for all Applicants, present and future, as well as to make payments in behalf of all Recipient Children, it shall first cease accepting applications in accordance with subsection (b)(1) above. If after taking such action, it is still determined that sufficient funds are not available, it shall take the actions set forth in subsection (b)(2) above. If after taking such action, it is still determined that sufficient funds are not available, it shall take the actions set forth in subsections (b)(3) and (4) above. In the event that the life or

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good health of a child is threatened if a procedure is not performed, DSCC shall give funding such procedure priority over other procedures not posing such threat.

c) The Director shall establish maximum dollar amounts for payment of authorized services per fiscal year which shall be applied to each child. DSCC shall provide notice of the limit to all Recipients and Health Care Facilities who may be affected.

d) By accepting a DSCC authorization, the Health Care Provider agrees not to seek further payment from the patient or the patient's family for such authorized services beyond the amounts available from insurance, DSCC, Medicare, or Medicaid. In those cases where DSCC has notified the Provider that money is no longer available from DSCC, the Provider shall not be so restricted.

e) Insurance

1) Maximum insurance benefits must be used. The LRA is responsible for complying with insurance contract provisions required to maximize the level of insurance benefits.

2) Payment for authorized services for children with insurance benefits shall not be made until insurance has paid or rejected the claim. Subject to all the limits on benefits as contained in this Part ~~these-Rules~~, DSCC will pay the cost of all required services above that reimbursed by insurance up to an established rate of payment. The Director shall approve payment for authorized services prior to settlement of the insurance claims if such is necessary to avoid undue suffering or to preserve life and good health, and if immediate payment will cause DSCC funds to be utilized in the most efficient and effective fashion, all as determined based on usual and customary medical standards.

3) The family shall notify DSCC within ~~thirty--t~~ 30t days of any change in the child's medical insurance coverage which results in coverage of costs which are currently paid for by DSCC.

f) ~~BSEG-will-not-provide-reimbursement-for-minor-occasional-costs-of-a-Recipient-Child's-treatment---for--purposes-of--this--clause--"minor-costs"--shall--be--defined--as--charges--for--supplies--equipment--replacement-parts--repair-and-replacement-of-equipment--and-drugs--less-than-\$25--each--"occasional-costs"-shall-be-defined-as-costs-occurring-less-frequently-than-once-per-month--in-the-event--that--minor-costs-are--not--occasional--they--may--be-aggregated-by-the-BRA-and-will-be-authorized-by-BSEG-~~

f)g) Submittal of Claims

1) In order to be eligible for payment consideration, a provider's/vendor's payment claim or bill, either initial or resubmittal following prior rejection, must be received by DSCC no later than nine (9) months from the date on which medical services, appliances or supplies are provided. This includes third party payment or denial information.

2) Claims which are not submitted and received by DSCC in compliance with the requirements of subsection (f)(1) ~~g)(1)~~ will not be

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eligible for payment under DSCC's medical program. DSCC and the patient or patient's family or guardian shall have no liability for any payment thereof.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.80 Availability of Services**a) Limitations**

DSCC will not provide the following:

- 1) Organ transplants and related anti-rejection drugs.
- 2) Surgery or other treatment which is primarily for cosmetic purposes.
- 3) Research or experimental medical or professional services, hospital services, drugs, devices or equipment.
 - A) Research or experimental medical or professional services, hospital services, drugs, devices or equipment is defined to include services, drugs, devices or equipment which have not been recognized as having a proven rehabilitative value as determined by the professional standards of the applicable medical or health care specialty groups, including but not limited to:
 - i) equipment or appliances that do not have the approval of the Department of Health and Human Services, Food and Drug Administration or other appropriate federal agency (Investigational New Drugs and Devices and investigational services and treatments shall not be deemed to have received such approval);
 - ii) medical and/or other health related services, including drugs, food supplements, equipment or appliances not reported on, described, or discussed in published and recognized professional journals which have an advisory board passing on its publications;
 - iii) services, drugs, devices, equipment or appliances that have not been recognized by appropriate national professional organizations.

- B) If a Health Care Provider wishes to utilize medical services, equipment or appliances which are identified as possibly research or experimental, the Provider must provide a written justification for doing so. Other pertinent information from knowledgeable professional sources may be obtained by the Health Care Provider. The DSCC Director shall determine whether services, equipment or appliances are, in fact, experimental or research based on the information supplied and the criteria at subsections (a)(3)(A)(i)-(iii); ~~immediately above.~~

- C) If DSCC authorizes a Health Care Provider to perform medical

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services or hospital service, or to purchase equipment or supplies later determined by DSCC as research or experimental, and if said Provider has failed to notify DSCC in advance of the possible experimental or research nature thereof, the Provider shall be obligated to refund any monies paid to it by DSCC or the LRA to perform such procedure or purchase such item.

b) Authorization: General

- 1) Except as otherwise specifically provided in subsection Section 1200-80(c)(5) of this Section, all health care services, equipment or drugs to be purchased for individuals by DSCC, including diagnostic evaluation services (see subsection (d) ~~See--Section---~~1200-80(d)), must be preauthorized, i.e., authorized by DSCC before their delivery. Such authorizations shall be to specific Health Care Providers and shall specify the services to be provided.
- 2) Prior to any services, equipment or drugs being authorized by DSCC, a completed application must have been submitted to DSCC and eligibility established for the DSCC program.
- 3) All authorizations are recorded as part of the individual patient's case record.
- c) Authorization Procedure
 - 1) An authorization for health care services, equipment or drugs must be requested from DSCC.
 - A) Any person may request that DSCC issue an authorization, but authorizations will not be effective until DSCC receives notice from a Health Care Provider which documents the need for and extent of the services, equipment or drugs to be provided to the Recipient Child. This notice may be either written or oral.
 - B) Services, drugs or equipment which are duplicative of those authorized or exceed authorized limits or are arranged without prior notification to and concurrence by DSCC shall not be authorized.
 - 2) Authorizations will be issued for health care services, drugs or equipment only to a specific Health Care Provider and then only if Provider meets the criteria established in this Part, has evidenced a willingness to participate in the DSCC program, agrees to accept DSCC rates of payment, and agrees to abide by DSCC administrative procedures, as set forth in this Part.
 - A) DSCC maintains lists of qualifying, currently participating, Health Care Providers.
 - B) If the LRA or Recipient Child wishes to use a particular Health Care Provider, not currently participating in the DSCC program, that Provider will be added to the DSCC program upon confirmation that said Provider meets all the standards enumerated above.
 - 3) All hospitalizations and all equipment purchases are subject to

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- separate authorizations for each occasion of such service.
- 4) Children receiving DSCC services shall be preauthorized for a certain set number of professional outpatient service visits if such is determined medically necessary and the ~~said~~ services will be furnished by a specific Health Care Professional or Facility. Upon medical recommendation for additional services, separate issuance of authorization(s) will be required.
- 5) Exceptions to the pre-authorization requirement:
- A) The initial medical referral of a child to DSCC may be concurrent with the first visit to an approved Health Care Professional or Health Care Facility. Upon submission of a completed application by an LRA (within ~~thirty~~ 30 days of the time services were rendered), an authorization for the ~~afordescribed~~ initial medical service will be issued if the applicant and LRA are determined eligible for the DSCC program and if the services provided are determined by DSCC to be medically necessary through the application of usual and customary medical criteria. (Note: payment for such services is subject to the time limits on retroactive benefits.)
 - B) Retroactive authorizations for services provided may be made unless:
 - i) the service was not provided during a period of eligibility except as provided in (C)(5)(A)7 ~~immediately above~~;
 - ii) DSCC was not notified within ~~thirty~~ 30 days after the service was provided;
 - iii) funds are not available to make the reimbursement, as determined by DSCC in accordance with Section 1200.70(b);
 - iv) the service was provided by a Health Care Facility or by a Health Care Professional not pre-approved by DSCC as meeting the Standards for Medical Personnel (Section 1200.100) or Standards for Facilities (Section 1200.110); unless the service provided was an emergency, as determined by usual and customary medical standards, in which case the service will be retroactively authorized if the Facility or Professional providing the service is deemed by DSCC to meet the standards of this Part after the request for reimbursement is received;
 - v) the LRA has privately arranged for services with a Health Care Provider expecting private sources of reimbursement at the level of their usual and customary charges; unless the ~~said~~ provider subsequently agrees to accept the DSCC level of reimbursement.
- d) The Diagnostic Evaluation Program (Diagnostic Services)

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- 1) DSCC provides for early identification and diagnostic evaluation of children eligible for the DSCC treatment program through the qualified professional and support staff within DSCC, through a clinic system which is organized and operated in cooperation with Health Care Providers from various regions and through relationships with Health Care Providers in the private-voluntary sector throughout the State ~~state~~.
- 2) Services necessary to determine medical eligibility are provided without charge above available insurance or other forms of reimbursement regardless of family financial circumstances.
- 3) In specified areas outside of Chicago, DSCC arranges for field clinics with special or general scope to meet on a periodic basis. These clinics are staffed by Health Care Professionals participating in the DSCC program and are available for Diagnostic Services as well as certain treatment services.
- 4) In the City of Chicago, DSCC utilizes established outpatient clinics associated with DSCC approved Health Care Facilities to perform Diagnostic Services. This list is available to the general public and these facilities may be utilized at any time, since there are not specific "DSCC clinic times" at these Facilities.
- 5) All Applicants requiring Diagnostic Services must receive an Authorization from DSCC and must make a specific appointment for the evaluation, in accordance with the rules and procedures of that Health Care Facility.
- 6) If DSCC is able to determine, from an interview or from other existing information, that an Applicant is ineligible, Diagnostic Services shall not be performed.
- 7) All Diagnostic Services must be provided on an outpatient basis unless inpatient services for this purpose are specifically approved by the Director who shall approve such services when they are medically required to complete the diagnostic evaluation.
- e) The Treatment Program
 - 1) DSCC provides for treatment and follow-up services through qualified professional and support staff within DSCC, through the field clinic system outside the City of Chicago, through DSCC approved Health Care Professionals and Facilities in Chicago, and through Health Care Providers throughout the State ~~state~~. The DSCC program is oriented in large part around a clinic or "specialized centers" model to encourage coordinated multi-specialist involvement with DSCC Recipient Children ~~recipient-children~~.
 - 2) The services provided through the DSCC Treatment Program include, when determined medically necessary by a Recipient Child's treating physician(s), the following:
 - A) Consultative services through a Health Care Professional or Facility.

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- B) Continuing outpatient supervision furnished by Health Care Professionals including office visits or by a Health Care Facility in a clinic, if such would more adequately meet the health care needs of the Recipient Child based on all applicable medical criteria than would a DSCC field clinic.
- C) Hospitalization and inpatient medical and/or surgical treatment including special rehabilitation services. Provided, however, that procedures, tests, or services shall not be performed on an inpatient basis if, under medical professional standards such procedures, tests, or services are usually and customarily performed in outpatient facilities, except that such procedures, tests, or services shall be performed on an inpatient basis if determined to be medically indicated by the Director based on the recommendation of the Recipient Child's treating physician(s).
- D) Convalescent care to the extent available and required as an intermediate service to continued hospitalization.
- E) Home based care intended to prevent continued hospitalization or similar-type medical placement, as determined desirable and feasible applying all medical standards. Such care is limited to training of parents and/or community health care providers; provision of recommended equipment and supplies; and, as necessary, periodic visiting nurse and/or related health personnel supervision. DSCC does not provide continuing care nursing, life support systems, or high technology equipment and related supplies but will help the LRA locate funding sources for these services, if they are determined to be medically necessary.
- F) Assistive appliances, approved by DSCC, such as braces, prosthetic limbs, hearing aids, wheelchairs and related adaptive devices and special supplies determined medically necessary to accomplish rehabilitation goals. Excluded are fixed architectural modifications of the LRA's dwelling in which the child resides, and property related thereto. External ramps and/or mechanical lifts needed to provide the child access to the dwelling are not excluded.
- G) Speech and hearing therapy, physical and occupational therapy.
- H) Nutrition evaluation, guidance and provision of special dietary substances upon medical recommendation, excepting those dietary substances available through programs of public or private agencies established for such purposes.
- I) Specialized dental care, such as orthodontia, prosthodontia, or oral surgery as required to further the treatment plan of children with severe oro-craniofacial deformities (e.g., cleft lip-cleft palate). Routine preventive or restorative

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- dentistry is not provided except for children for whom this service is a specific recommendation to be integrated into an authorized orthodontic or prosthodontic plan.
- J) Arrangements for home follow-up services by public health and/or related habilitative services personnel.
- K) Specialized prescriptive drugs integral to the treatment program of a chronic disability--~~subject-to-the-limitations of-Section-1200.70(f).~~
- L) Genetic evaluation and family counseling.
- M) Psychological/psychiatric evaluation as medically recommended for diagnosis and treatment planning.
- N) Referral to other public or private agencies as required to further support the special needs of the family and/or child.

F) Transportation Assistance

~~1)37~~ In order to make recommended services accessible to families, DSCC will support necessary transportation, lodging, meals, and parking costs ~~if-the-annual-total-income-is-at-or-below-133%-of-Poverty-income-Guidelines-1-57-Ped-Reg--5455~~. DSCC shall be obligated to provide the said support only if no other sources are available for this purpose.

A) DSCC shall support necessary transportation by the most economically appropriate method and at a cost not exceeding limitations as set forth in the Reimbursement Schedule of the Travel Regulation Council at 80 Ill. Adm. Code 3000. Appendix A. DSCC will prescribe the form and procedure which families must follow in order to receive and verify expenses.

B) Support will be available for the following individuals: LRAs; the child Recipient---Child; any additional caretaker whose presence is medically required to provide care for the child Recipient---Child during transportation.

C) When circumstances so dictate to meet the health care needs of the child, the Director shall authorize payments in excess of the amount stated above.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.90 Rates of Payment

- a) All services subject to payment by DSCC shall be authorized by DSCC in accordance with Section 1200.80(c). All payments shall be approved and made in accordance with all applicable State laws relating to making disbursements of public funds.
- b) Methods of Payment
- 1) The rate of payment for the services of Health Care Professionals

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shall be established by the Director at a level not in excess of the usual and customary fee for the service to be performed as determined by all data, information and value scales bearing on the appropriateness of the fee. Dental services shall have the same reimbursement arrangement. DSCC will negotiate other reimbursement formulae or fee schedules if it determines that such will be required to meet the needs of children with complex impairments.

- 2) Payments for other medically necessary treatment or services appropriate for the condition being treated whether at the patient's home, a private office, hospital, extended care facility or outpatient therapy center, shall be determined by the Director utilizing the criteria described in subsection (b) Subsection(1)7-immediately-above.
- 3) Payments for hospital services, including hospital outpatient clinics, shall be the lower of the hospital's reimbursable costs as determined by cost reports filed by the hospital with the Illinois Department of Public Aid or similar agency or its charges. Hospitals shall be entitled to interim payments in amounts not to exceed their billed charges. In the event that these interim payments to the hospital exceed the hospital's verified allowable costs, the hospital shall reimburse any overpayment to DSCC. All payments made to hospitals shall be deemed subject to this provision.

- 4) Payments for outpatient services such as x-rays and laboratory procedures shall be made in accordance with fee schedules established by DSCC utilizing criteria described in subsection (b) Subsection(1)7-immediately-above.

- 5) Payments for drugs shall be made in accordance with a fee schedule based upon a set dispensing fee and a percentage of the average wholesale price as determined from the NDC Product and Pricing Database. upon-billing-at-rates-which-are--the--lower--of these--established--in--accordance-with-42-C-P-R--447-331-(Maximum Allowable-Costs--M-A-C--)-with--42-C-P-R--447-332--(Estimated Acquisition-Cost--A-C--)-and-42-C-P-R--447-333-(Dispensing Fee--and-with-P-A--83-303-adding-Section-5-5-12-to-Chapter-23--of the--Illinois--Public--Aid--Code--effective-January-17-1984--or-a usual-and-customary-charge--as-established-in--accordance-with-the law-and-the-regulations--aforementioned--

- 6) Payments for braces, prostheses, hearing aids, and related assistive appliances, and medical supplies shall be made in accordance with the laws of the State of Illinois relating to purchasing and finance.

- 7) Payment amounts for services in out-of-state facilities not otherwise included in subsection (b)(3) Subsection-43 of this Section shall be the said facility's charge unless DSCC determines that the charge exceeds the usual and customary level of reimbursement. When possible, the amount will be determined

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in advance of the authorization for services through direct negotiation with the provider.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

Section 1200.110 Standards for Health Care Facilities

- a) Diagnostic and Treatment Facilities - General
 - 1) All such facilities utilized by DSCC must carry adequate malpractice insurance in such amounts as are determined by the Director from time to time and must give DSCC assurance of this coverage.
 - 2) All hospital and extended care facilities utilized by DSCC for the provision of patient care services shall conform to the following standards:
 - A) Licensure by the appropriate state licensing body;
 - B) Accreditation by the Joint Commission on Accreditation of Healthcare Organizations, or the American Osteopathic Association when providing in-hospital care;
 - C) Recipient Children shall be provided inpatient care in hospital facilities with a physically definable pediatric unit to which only children are admitted. In making the selection and designation of such approved patient care facilities, DSCC shall give priority to those facilities which demonstrate emphasis on quality children's medical services pursuant to standards enumerated in subsection (a)(2)(D) immediately--below. In a particular service area in which only a single hospital is utilized to admit all Recipient Children, these standards shall be waived when determined by the DSCC Director to be medically indicated to meet the needs of the Recipient Child;
 - D) All patient care facilities, programs and specialized patient care centers shall meet national standards whenever possible, including those promulgated by the American Medical Association, the American Hospital Association, the American College of Surgeons, the American Academy of Pediatrics, the Joint Commission on the Accreditation of Healthcare Organizations Hospitals, the Commission for the Accreditation of Rehabilitation Facilities, the Inter-Society Committee on Congenital Heart Disease and the American Heart Association.
 - 3) Priority shall be given to those facilities Facilities affiliated with a medical school. DSCC shall refer children to designated regional or statewide referral centers when medically indicated utilizing usual and customary medical standards.
 - 4) The above standards shall be waived by the DSCC Director when necessary to meet the medical needs of the child utilizing usual

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- and customary medical standards.
- b) Outpatient therapy centers ~~therapy centers~~, defined as facilities, not directly associated with approved hospital facilities, which are organized to provide rehabilitative services such as physical, occupational, speech and hearing therapy (including applicable diagnoses), at the community level, will be available to patients under DSCC authorization provided that:

- 1) Such facilities carry adequate malpractice insurance in such amounts as are determined by the Director from time to time and DSCC is given assurances of this coverage;
- 2) Such facilities and staff meet appropriate state certification whenever such standards exist;
- 3) Such facilities and staff meet accreditation standards of the Commission for Accreditation of Rehabilitation Facilities, where they exist;
- 4) Utilization of outpatient therapy centers ~~Outpatient--therapy centers~~ or individual Therapist Health Care Professionals must be prescribed by the Recipient Child's DSCC-authorized physician responsible for the overall management of the physical impairment requiring the rehabilitative service.

c) Medical Equipment Suppliers

- 1) All medical equipment suppliers must carry adequate insurance in such amounts as are determined by the Director from time to time and must give DSCC assurance of this coverage.
- 2) A facility providing braces, appliances and/or prostheses must be currently approved under the Facility Certification Program administered by the American Board of Certification in Orthotics and Prosthetics, Incorporated, and have in their employ an orthotist and/or prosthetist who has successfully completed a training program recognized by the American Board of Orthotists and Prosthetists, Incorporated, and who is certified by the said Board. Providers of specialized medical equipment shall be authorized or approved dealers for such equipment as defined by the manufacturer and shall meet the manufacturer's standards for servicing and repairing such equipment.
- 3) The above services must be requested by the Recipient Child's DSCC-authorized physician.
- 4) A provider of hearing instruments ~~aid~~s must be licensed certified by the Department of Public Health as a hearing instrument ~~aid~~ dispenser as provided in the Hearing Instrument ~~Aid~~ Consumer Protection Act [225 ILCS 50] (~~---Rev--Stat--1991--ch--111--par--7481--et--seq--7.~~)

d) Clinical Laboratories

- 1) All clinical laboratories must carry adequate insurance in such amounts as are determined by the Director from time to time and must give DSCC assurance of this coverage.
- 2) All such laboratories utilized by DSCC must meet the standards and be appropriately licensed by the state in which they operate.

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Laboratories in Illinois must have a current license maintained in accordance with the Clinical Laboratory and Blood Bank Act [210 ILCS 25] (~~---Rev--Stat--1991--ch--111--1/27--par--621-101-et--seq--7~~) and Illinois Clinical Laboratories Code~~7~~ or~~7~~ be fully certified to perform tests of moderate or high complexity under the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

- e) Hospitals and other treatment facilities are responsible for informing DSCC of changes in professional staff providing services to any Recipient Child.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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Section 1200.APPENDIX A Income Scale

Family Size of Household	Income-Scale	Income Allowance* (FY-93)
1		\$18,200
2		23,800
3		29,400
4		35,000
5		40,600
6		46,200
7		47,300
8		48,300
9		49,400
10		50,400
11		51,500
12		52,500

This table is based upon 65% 50% of the gross median family income adjusted for family size as developed for the State of Illinois by the U.S. Department of Health and Human Services, using the Federal Register's updated table for gross median family income (57 Fed. Reg. 6614). In order to find 55% 50% of State state median income for households with greater than 12 members, perform the following calculation:

- 1) Begin with 1.50 150%;
- 2) Add 0.03 point 3-percentage-points for each additional family member (above 12 members);
- 3) Multiply figure obtained at step (2) by \$35,000 25-600 (i.e., the 4 person household amount);
- 4) Round the figure obtained at step (3) to the nearest \$100.

*Maximum allowable Allowable Adjusted Family Income which results in full financial assistance.

(Source: Amended at 21 Ill. Reg. _____, effective _____)

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Section 1200.APPENDIX B Payment Scale*

\$ Amount in Excess of Adjusted Family Income-in-Excess of Income Scale	Annual Payment
1 - 999 499	None 20%-of-amount-in \$--105
500 - 999	excess-of-income-Scale
1,000 - 1,499	\$20 220
1,500 - 1,999	45 345
2,000 - 2,499	80 480
2,500 - 2,999	125 625
3,000 - 3,499	180 780
3,500 - 3,999	245 945
4,000 - 4,499	320 1120
4,500 - 4,999	405 1305
5,000 - 5,499	500 1500
5,500 - 5,999	605 1760
6,000 - 6,499	720 2040
6,500 - 6,999	845 2340
7,000 - 7,499	980 2660
7,500 - 7,999	1,125 3000
8,000 - 8,499	1,280 3360
8,500 - 8,999	1,445 3740
9,000 - 9,499	1,620 4140
9,500 - 9,999	1,805 4560
10,000 - 10,499	2,000 5000
10,500 and above	no DSCC financial payment

*Derived from U.S. Department of Health and Human Services publication: "Setting Fees Based on a Family's Ability to Pay: A Guide for Agency Decision Making" (An Administrative Publication for State MCH Agencies, "Measure of Ability to Pay," December 1982).

(45678)

(Source: Amended at 21 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: 310.230
Adopted Action: Amended
- 4) Statutory Authority: Authorized by Section 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) Effective Date of Rulemaking: May 15, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
These amendments do not contain any incorporations by reference.
- 8) Date Filed in Agency's Principal Office: May 15, 1997
- 9) Notice of Proposal Published in Illinois Register: January 17, 1997, Issue #3, 21 Ill. Reg. 732
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The hourly and daily rate changes pertaining to the October, 1996 FLSA minimum wage increase (\$4.75 per hour) that were recently adopted at 21 Ill. Reg. 5144 (April 25, 1997 Illinois Register) have been incorporated into this amendment.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

Section Numbers	Adopted Action	Illinois Register Citation
310.230	Amended	21 Ill. Reg. 2762
210.280	Amended	21 Ill. Reg. 2762

- 15) Summary and Purpose of Rulemaking: The Department of Mental Health and Developmental Disabilities requested that the maximum hourly rate for the Physician Specialist, Option C, be upgraded from \$75 to \$105 per hour in Section 310.230 (Part-Time Daily or Hourly Special Services Rate)

The agency stated that the new maximum hourly rate of \$105 would help recruit and retain employees who perform the critical services of these positions. The requested rate relates properly to the revised maximum rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

that was changed for the Physician Specialist, Option D.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Name: Mr. Michael Murphy
Address: Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: 217/782-5601

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 1997
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1997
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A

TABLE A	Negotiated Rates of Pay HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	HR-196 (Department of Natural Resources, Teamsters)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE C	RC-069 (Firefighters, AFSCME)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q	RC-033 (Meat Inspectors, IFPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 1997
APPENDIX C	Medical Administrator Rates for Fiscal Year 1997
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 1997
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; emergency amendment at 11 Ill. Reg.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

3363, effective February 3, 1987; emergency amendment at 11 Ill. Reg. 4388, effective February 27, 1987; emergency amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; emergency amendment at 11 Ill. Reg. 15273, effective September 1, 1987; emergency amendment at 11 Ill. Reg. 17919, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; emergency amendment at 12 Ill. Reg. 3811, effective January 27, 1988; emergency amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 8135, effective April 22, 1988; emergency amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; emergency amendment at 12 Ill. Reg. 20584, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; emergency amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; emergency amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; emergency amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; emergency amendment at 14 Ill. Reg. 17098, effective September 28, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; emergency amendment at 14 Ill. Reg. 18854, effective November 13, 1990; emergency amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective MAY 15, 1997.

SUBPART B: SCHEDULE OF RATES

Section 310.230 Part-Time Daily or Hourly Special Services Rate

The rate of pay as approved by the Director of Central Management Services for persons employed on a consultative or part-time basis requiring irregular hours of work shall be as listed below, except the total compensation of an employee in any given month shall not exceed the monthly rate of Step 5 of the salary grade for the title as shown in the Schedule of Salary Grades (Appendix B) of this Part if the class title is subject to the Schedule of Salary Grades, or Step 5 of the negotiated salary range for classes of positions shown in Section 310.220, Subpart B, Schedule of Rates, or 75% of the maximum rate of those classes of positions subject to the provisions of the Merit Compensation System, Subpart C of this Pay Plan.

Account Technician II	11.00 to 14.08 (hourly)
Apiary Inspector	83 to 106 (daily)
Building/Grounds Laborer	3.28 to 10.15 (hourly)
Building/Grounds Lead I	4.75 to 6.00 (hourly)
Building/Grounds Lead II	4.75 to 7.00 (hourly)
Building/Grounds Maintenance Worker	5.25 to 8.00 (hourly)
Chaplain I	5.00 to 6.00 (hourly)
Chemist I	36 to 70 (daily)
Conservation/Historic Preservation Worker	36 to 45 (daily)
Conservation/Historic Preservation Worker (2nd season -- site interpretation)	4.75 to 6.50 (hourly)
Conservation/Historic Preservation Worker (3rd season -- site interpretation)	4.78 to 6.50 (hourly)
Dentist I	70 to 150 (daily)
Dentist II	100 to 185 (daily)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Educator	36 to 85 (daily)
Educator Aide	36 (daily)
Guard II	67 to 84 (daily)
Guard III	75 to 96 (daily)
Hearing and Speech Coordinator	15 to 30 (hourly)
Hearings Referee	75 to 200 (daily)
Janitor I	4.75 to 5.30 (hourly)
Labor Maintenance Lead Worker	5.00 to 6.00 (hourly)
Labor Relations Investigator	36 to 70 (daily)
Laborer (Maintenance)	4.75 to 5.70 (hourly)
Maintenance Worker	4.75 to 5.00 (hourly)
Occupational Therapist	40 to 160 (daily)
Program Coordinator	8.12 to 10.71 (hourly)
Office Aide	60 to 80 (daily)
Office Assistant	9.16 to 12.36 (hourly)
Office Associate	68 to 93 (daily)
Office Clerk	9.80 to 13.44 (hourly)
Optometrist	73 to 101 (daily)
Physician	8.58 to 11.49 (hourly)
Physician Specialist (A)	64 to 86 (daily)
Physician Specialist (B)	15 to 35 (hourly)
Physician Specialist (C)	50 to 160 (daily)
Physician Specialist (D)	100 to 300 (daily)
Podiatrist	20 to 60 (hourly)
Psychologist I	100 to 325 (daily)
Psychologist II	20 to 70 (hourly)
Psychologist III	100 to 350 (daily)
Recreation Worker I	20 to 105.75 (hourly)
Registered Nurse I	100 to 360 (daily)
Registered Nurse I (2nd or 3rd shift)	20 to 115 (hourly)
Registered Nurse I (Cook County)	100 to 370 (daily)
Registered Nurse I (Cook County - 2nd or 3rd shift)	50 to 125 (daily)
Registered Nurse II	36 to 80 (daily)
Registered Nurse II (2nd or 3rd shift)	40 to 125 (daily)
Registered Nurse II (2nd or 3rd shift)	40 to 150 (daily)
Registered Nurse II (Cook County)	5.33 (hourly)
Registered Nurse II (Cook County)	36 to 40 (daily)
Registered Nurse II (Cook County)	39 to 54 (daily)
Registered Nurse II (Cook County)	41 to 56 (daily)
Registered Nurse II (Cook County)	43 to 58 (daily)
Registered Nurse II (Cook County)	44 to 59 (daily)
Registered Nurse II (Cook County)	43 to 58 (daily)
Registered Nurse II (Cook County)	44 to 59 (daily)
Registered Nurse II (Cook County)	45 to 60 (daily)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Registered Nurse II (Cook County - 2nd or 3rd shift)	47 to 62 (daily)
Revenue Tax Specialist I	11.56 to 16.16 (hourly)
Social Worker II	86 to 122 (daily)
Social Worker III	36 to 75 (daily)
Student Worker	36 to 80 (daily)
Technical Advisor II	4.75 to 8.00 (hourly)
Technical Advisor III	32 to 35 (hourly)
Veterinarian II	32 to 60 (hourly)
	95 to 130 (daily)

(Source: Amended at 21 Ill. Reg. effective

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Approval of Negotiated Agreements

2) Code Citation: 83 Ill. Adm. Code 763

3) Section Numbers: Proposed Action:

763.10 New Section
 763.20 New Section
 763.30 New Section
 763.40 New Section
 763.50 New Section
 763.60 New Section
 763.100 New Section
 763.110 New Section
 763.120 New Section
 763.130 New Section
 763.140 New Section
 763.150 New Section
 763.200 New Section
 763.210 New Section
 763.230 New Section
 763.300 New Section
 763.320 New Section
 763.330 New Section
 763.340 New Section
 763.350 New Section
 763.360 New Section
 763.370 New Section
 763.380 New Section
 763.400 New Section
 763.410 New Section
 763.420 New Section
 763.430 New Section
 763.440 New Section
 763.450 New Section
 763.460 New Section
 763.470 New Section

4) Statutory Authority: Implementing Section 252 of the Communications Act of 1934 (47 U.S.C. 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].

5) Effective Date of Rules: May 16, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

8) Date filed in Agency's Principal Office: May 12, 1997

9) Notice of Proposal Published in Illinois Register: June 28, 1996, at 20 Ill. Reg. 8398

10) Has JCAR issued a Statement of Objections to these rules? Yes. November 1, 1996, 20 Ill. Reg. 14284. Filing Prohibition withdrawn, May 2, 1997, 21 Ill. Reg. 5655

11) Differences between proposal and final version:

Added Sections 763.50 and 763.60.

Section 763.20: Added "including Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]".

Section 763.110(a)(2): deleted "of all witnesses the petitioners propose to call at the hearing".

Section 763.330: Deleted originally proposed language and substituted the language now found in subsections (a) and (b).

Section 763.400(a): Added "if they refer to testimony or evidence adduced at a hearing".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace emergency rules currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: These rules provide rules that are specifically designed to implement Section 252 of the Telecommunications Act of 1996. The Commission has established the requirements for the form, filing, and the service of documents in the approval of negotiated agreements between two telecommunications carriers and discovery, and procedure prior to, during, and following the proceeding.

16) Information and questions regarding these adopted rules shall be directed to:

Conrad Rubinkowski
 Office of General Counsel
 Illinois Commerce Commission
 527 East Capitol Avenue
 P.O. Box 19280
 Springfield, IL 62794-9280

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

(217)785-3922

Fax: (217)524-9280

The full text of the Adopted Rules begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES

CHAPTER I: ILLINOIS COMMERCE COMMISSION

SUBCHAPTER f: TELEPHONE UTILITIES

PART 763

APPROVAL OF NEGOTIATED AGREEMENTS

SUBPART A: GENERAL PROVISIONS

Section

763.10 Procedure Governed

763.20 Deviation from this Part

763.30 Definitions

763.40 Authority of Hearing Examiner

763.50 Federal Preemption of State Court Review

763.60 Failure to Act

SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS

Section

763.100 Communications to the Commission

763.110 Filing of Petition for Approval of Negotiated Agreement

763.120 Required Disclosures

763.130 Contents of Documents

763.140 Copies of Documents

763.150 Service

SUBPART C: SCHEDULING AND DISCOVERY PROCEDURES

Section

763.200 Scheduling Conferences

763.210 Failure to Comply with a Discovery Order or a Subpoena

763.230 Protective Orders

SUBPART D: INFORMATION GATHERING PROCEDURE

Section

763.300 Disqualification of Hearing Examiner

763.320 Transcripts

763.330 Consolidation and Severance

763.340 Information to be Adduced

763.350 Information to be Under Oath or Affirmation

763.360 Stipulation of Facts

763.370 Exhibits

763.380 Ex Parte Communications

SUBPART E: PROCEDURE FOLLOWING INFORMATION GATHERING

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Section	
763.400	Briefs
763.410	Draft Proposed Decisions
763.420	Hearing Examiner's Proposed Decision
763.430	Exceptions; Reply
763.440	Filing of Briefs
763.450	Oral Argument
763.460	Additional Hearings
763.470	Reopening on Motion of the Commission

AUTHORITY: Implementing Section 252 of the Communications Act of 1934 (47 U.S.C. 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].

SOURCE: Emergency rules adopted at 20 Ill. Reg. 8527, effective June 18, 1996, for a maximum of 150 days; emergency rules suspended at 20 Ill. Reg. 14285, effective November 1, 1996; emergency suspension lifted at 21 Ill. Reg. 5656, effective May 2, 1997; amended at 21 Ill. Reg. 6454, effective 6/1/97.

SUBPART A: GENERAL PROVISIONS

Section 763.10 Procedure Governed

This Part governs practice and procedure before the Illinois Commerce Commission (Commission) in the approval of negotiated agreements required by Sections 252(e)(1) and 252(e)(2)(A) of the Communications Act of 1934 (47 U.S.C. 252).

Section 763.20 Deviation from this Part

To the extent permitted by law, including Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10], any provision of this Part may be waived, suspended or modified by the Commission or an Examiner, either upon their own motion or upon motion by any person.

Section 763.30 Definitions

Unless otherwise defined, the following terms as used in this Part shall have the following meanings:

"Commissioner" means a member of the Commission.

"Documents" means petitions, amended and supplemental petitions, written discovery, answers to discovery, motions, responses, replies, notices, suggested findings of fact and conclusions of law, exceptions to Hearing Examiners' proposed orders, briefs, drafts or suggested forms of order, and similar writings.

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"Hearing Examiner" means an employee of the Commission, or a Commissioner, designated by the Commission to conduct proceedings pursuant to Section 252(e) of the Communications Act of 1934 (47 U.S.C. 252).

"Intervenor" means a person who, upon written petition, is permitted to intervene in any proceeding under this Part.

"Party" means any person who enters into a negotiated agreement for which Commission approval is sought under 47 U.S.C. 252(e); or, any person allowed by the Commission or Hearing Examiner to intervene in a proceeding. Staff is not a party but shall have the specific rights and duties of parties as enumerated in this Part.

"Person" means any individual, partnership, corporation, governmental body or unincorporated association.

"Staff" or "Commission Staff" means individuals employed by the Commission. For purposes of this Part, a Hearing Examiner is not considered a member of the Commission Staff.

Section 763.40 Authority of Hearing Examiner

a) The Hearing Examiner shall have authority over the conduct of a proceeding under this Part and the responsibility for submission of the matter to the Commission for decision. The Hearing Examiner shall have those duties and powers necessary to these ends, including the following:

- 1) To conduct hearings and pre-hearing conferences;
- 2) To direct parties to serve testimony and exhibits and establish a date certain for service;
- 3) To grant or deny Petitions to Intervene;
- 4) To conduct discovery of the parties;
- 5) To supervise all or any part of any discovery procedure;
- 6) To administer oaths and affirmations;
- 7) To examine witnesses and to allow the examination of an adverse party or agent;
- 8) To rule upon all matters which do not result in the final determination of the proceeding;
- 9) To call upon any party at any stage of the proceeding to produce further information that is material and relevant to any issue;
- 10) To issue proposed decisions pursuant to Section 763.420 of this Part;
- 11) To issue protective orders in accordance with Section 763.430 of this Part; and
- 12) To ensure that the proceeding is conducted in a full, fair and impartial manner, that order is maintained and that unnecessary delay is avoided in the disposition of the proceedings.

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- b) Any party who fails to comply with an order of the Hearing Examiner may be limited in its presentation of information during the proceeding.

Section 763.50 Federal Preemption of State Court Review

No State court shall have jurisdiction to review the action of the Commission in approving or rejecting an agreement under Section 252 of the Communications Act of 1934.

Section 763.60 Failure to Act

Pursuant to Section 252(e)(4) of the Communications Act of 1934, if the Commission does not act to approve or reject the agreement within 90 days after the submission by the parties of an agreement adopted by negotiation under Section 252(a) of the Communications Act of 1934, the agreement shall be deemed approved.

SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS

Section 763.100 Communications to the Commission

All documents to be filed with or submitted to the Commission shall be addressed to: The Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62706. All formal communications and documents are deemed to be officially filed or submitted only when delivered to the principal office of the Commission. The Chief Clerk is the official custodian of all Commission records.

Section 763.110 Filing of Petition for Approval of Negotiated Agreement

- a) All petitions for approval of a negotiated agreement shall be jointly filed by the parties to the agreement. In addition, all petitions:
- 1) Shall be verified.
 - 2) Shall be accompanied by the verified written statements and exhibits to support their position that:
 - A) neither the agreement, nor any portion thereof, discriminates against a carrier not a party to the agreement; and
 - B) neither implementation of the agreement, nor any portion thereof, would be inconsistent with the public interest.
- b) A petition for approval of a negotiated agreement shall not be accepted for filing unless it is verified.

Section 763.120 Required Disclosures

Unless otherwise ordered by the Hearing Examiner or the Commission, parties shall file with the petition for approval of a negotiated agreement, and

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without awaiting a discovery request:

- a) The name, address and telephone number of each individual likely to have discoverable information relevant to the issues of whether:
 - 1) the agreement, or any portion thereof, discriminates against a carrier not a party to the agreement; and
 - 2) implementation of the agreement, or any portion thereof, would be inconsistent with the public interest.
- b) A copy of, or a description by category and location of, all documents, data compilations, and written information in the possession, custody, or control of the party that are relevant to the issues of whether:
 - 1) the agreement, or any portion thereof, discriminates against a carrier not a party to the agreement; and
 - 2) implementation of the agreement, or any portion thereof, would be inconsistent with the public interest.

Section 763.130 Contents of Documents

- a) All documents submitted in approval proceedings before the Commission shall display the docket number of the proceeding. Documents initiating a new proceeding shall leave a space for the docket number. All documents shall also include the full name, address and telephone number of the person or the representative of the person filing the document.
- b) The original of every document filed with the Commission shall be signed by the party filing the same or by an officer or agent. The factual assertions contained in all documents shall be verified by the filing party before a notary public. The verification shall be in form and substance as follows:

I, _____, do on oath depose and state that the facts contained in the foregoing document are true and correct to the best of my knowledge and belief.

SIGNATURE OF PERSON VERIFYING DOCUMENT

SIGNED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 199__.

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Section 763.140 Copies of Documents

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All documents shall be filed with the Chief Clerk in one original and two copies, unless otherwise specified in this Part.

Section 763.150 Service

- a) All documents shall be deemed filed on the date received by the Chief Clerk of the Commission. Service on the Chief Clerk of the Commission cannot be made by telephone facsimile. All documents shall be served upon the parties to the proceeding on the day they are filed with the Chief Clerk of the Commission.
- b) Proof of service of any paper shall be by certificate of attorney, acknowledgement of receipt, or affidavit.

SUBPART C: SCHEDULING AND DISCOVERY PROCEDURES

Section 763.200 Scheduling Conferences

Upon direction of the Commission or on his or her own motion, the Hearing Examiner may request all parties to attend a scheduling conference. Notice of the conference shall be given in writing, telephone, or telephone facsimile not later than 24 hours before the pre-hearing conference. Such a conference may be held for any purpose, including, but not limited to:

- a) Scheduling;
- b) Identification and simplification of issues;
- c) Amendments to documents;
- d) Limitations on the number of witnesses;
- e) The issuance of rulings denying, limiting, conditioning or regulating discovery;
- f) The issuance of rulings supervising all or any part of any discovery procedure; and
- g) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

Section 763.210 Failure to Comply With a Discovery Order or a Subpoena

If a person or party fails to comply with a discovery order or refuses to attend or be sworn at a hearing, the Hearing Examiner may suspend further proceedings until compliance is obtained, or the Hearing Examiner may strike all or any part of the pleadings of such party, or refuse to allow the party to support designated claims or defenses.

Section 763.230 Protective Orders

At any time during the pendency of a proceeding, the Commission or the Hearing Examiner may, on the motion of any person, enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies.

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SUBPART D: INFORMATION GATHERING PROCEDURE

Section 763.300 Disqualification of Hearing Examiner

- a) A Hearing Examiner assigned to a proceeding may, upon written request to and approval of the Chief Hearing Examiner, recuse himself or herself from the proceeding.
- b) Whenever any party believes a Hearing Examiner for any reason should be disqualified from conducting, or continuing to conduct, a proceeding assigned to him or her, such party may file a motion to disqualify the Hearing Examiner, setting forth by affidavit the alleged grounds for disqualification. The Hearing Examiner shall have 5 days after filing of the motion within which to enter a written ruling thereon. A copy of such ruling shall be served upon all parties.
- c) Any ruling by a Hearing Examiner denying a request for recusal under this Section may be reviewed by the Commission. Review shall be sought no more than 3 days from the denial of the motion to recuse or disqualify. The party seeking review of the ruling shall file with the Chief Clerk a verified petition, together with any offer of proof, and shall serve a copy of the petition upon the Hearing Examiner and all parties to the proceeding. Other parties and the staff representative may file responses within 3 days after the filing of the petition. The Hearing Examiner shall have 3 days from the filing of the petition within which to file a report to the Commission with the Chief Clerk, who shall serve copies of such report on the parties and staff representatives.

Section 763.320 Transcripts

- a) A complete record of all proceedings conducted under this Part, including oral arguments before the Commission or Hearing Examiner, shall be transcribed by a reporter appointed by the Commission. In the event that expedited transcripts are required, the cost of preparation shall be borne by Petitioner.
- b) Suggested corrections to the transcript of record must be filed within 7 days from the day on which the hearing is held or at such other time as prescribed by the Hearing Examiner, and shall be in writing and served upon each party, the official reporter and the Hearing Examiner.
- c) Objections to suggested corrections shall be filed within 5 days after the filing of the suggestions, unless otherwise prescribed by the Hearing Examiner. The Hearing Examiner shall determine what changes, if any, shall be made in the record.
- d) If no objection is made to the suggested corrections, the Hearing Examiner may, in his or her discretion, direct the corrections to be made and the manner of making them. The purpose of this determination shall be to ensure the accuracy of the record.

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Section 763.330 Consolidation and Severance

- a) Where not inconsistent with the requirements of the Communications Act of 1934, the Commission or Hearing Examiner may, to the extent practical, order the consolidation of two or more proceedings under Section 252(b) of the Communications Act of 1934 in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under Section 252 of the Communications Act of 1934.
- b) Where not inconsistent with the requirements of the Communications Act of 1934, the Commission or Hearing Examiner may, to the extent practical, order the severance of two or more proceedings previously consolidated under subsection (a) of this Section in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under Section 252 of the Communications Act of 1934 or order the severance of issues from a proceeding in those instances where the issues need not be decided within the time limit set in the Communications Act of 1934 for the Commission's decision on an agreement adopted by negotiation.

Section 763.340 Information to be Added

- a) In all proceedings subject to this Part, irrelevant, immaterial or unduly repetitious information shall be excluded. Relevant information may be admitted at the hearing if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs.
- b) Whenever a verified statement or exhibit contains language and/or figures that differ from the exhibit offered, the sponsoring party shall indicate all changes in writing either on a corrective sheet or the actual exhibit shall have the corrected language and/or figures so designated.
- c) Any information offered in whatever form shall be subject to appropriate and timely objection. The Hearing Examiner may, either with or without objection, exclude irrelevant, immaterial, unduly repetitious or otherwise inadmissible information.

Section 763.350 Information to be Under Oath or Affirmation

All orally presented information to be considered by the Commission shall be sworn or affirmed testimony.

Section 763.360 Stipulation of Facts

The parties and Staff may, by written stipulation filed with the Commission or by oral stipulation entered in the record, agree upon the facts or any part thereof related to the contested issues in the proceeding. Notwithstanding the stipulation of the parties, the Commission or the Hearing Examiner may require

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further information in support of the facts so stipulated.

Section 763.370 Exhibits

- a) All exhibits shall be marked numerically and/or alphabetically with a party designation and shall conform to the requirements of Section 763.120 of this Part.
- b) When exhibits are identified for the record, unless the Hearing Examiner directs otherwise, an original and two copies shall be offered at the hearing and a copy provided to the Hearing Examiner and to each party.

Section 763.380 Ex Parte Communications

- a) The provisions of Section 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/10-60] shall apply in full to Commission proceedings that are subject to this Part. The provisions of Section 10-60 shall not apply, however, to communications between Commission employees who are engaged in investigatory or advocacy functions and other parties to the proceeding, provided that such Commission employees are still prohibited from communicating on an ex parte basis, as designated in Section 10-60, directly or indirectly, with members of the Commission, any Hearing Examiner in the proceeding, or any Commission employee who is or may reasonably be expected to be involved in the decisional process of the proceeding.
- b) Any Commissioner, Hearing Examiner, or other Commission employee who is or may reasonably be expected to be involved in the decisional process of a proceeding, who receives, or who makes or knowingly causes to be made, a communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act as modified by Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103] shall place on the public record of the proceeding:
 - 1) All such written communications;
 - 2) Memoranda stating the substance of all such oral communications; and
 - 3) All written responses and memoranda stating the substance of all oral responses to the materials described in subsections (b)(1) and (2). [220 ILCS 5/10-103]
- c) The material specified in subsection (b) shall be disclosed to the parties of record by:
 - 1) Service on the parties at the hearing; or
 - 2) If no hearing is scheduled within the next seven days, service by hand delivery, overnight mail or courier service or telephone facsimile on all parties to the proceeding.

SUBPART E: PROCEDURE FOLLOWING INFORMATION GATHERING

Section 763.400 Briefs

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- a) The Hearing Examiner or the Commission may order the parties to file a brief. If hearings are held, parties must use transcript citations if they refer to testimony or evidence adduced at a hearing. In the discretion of the Commission or the Hearing Examiner, failure to use transcript citations may result in rejection of all or part of the brief.
- b) Briefs shall be concise, and, if in excess of 20 pages, excluding appendices, shall contain:
- 1) A table of contents;
 - 2) A short statement of the case;
 - 3) A summary of the position of the party filing; and
 - 4) Argument.

Section 763.410 Draft Proposed Decisions

The Hearing Examiner may permit or require a party or parties to file draft proposed decisions.

Section 763.420 Hearing Examiner's Proposed Decision

In a contested case, the Hearing Examiner presiding shall prepare a proposed decision, including a statement of findings and conclusions and the reasons on basis therefor, on all material issues. Such proposed decision shall be served by the Chief Clerk of the Commission on all parties to the proceeding.

Section 763.430 Exceptions; Reply

- a) The parties may file exceptions to the Hearing Examiner's proposed decision at such time as is fixed by the Hearing Examiner or the Commission. The Hearing Examiner or the Commission may also require the parties to file as a reply "Brief in Reply to Exceptions."
- b) Exceptions and replies to exceptions with respect to statements, findings of fact or rulings of law must be specific and must be stated and numbered separately in the brief. When exception is taken or a reply is made as to a statement or finding of fact, a suggested replacement statement or finding must be incorporated. Exceptions and replies may contain written arguments in support of the position taken by the party or staff witnesses filing such exceptions or reply.

Section 763.440 Filing of Briefs

An original and 11 copies of all briefs shall be filed with the Commission.

Section 763.450 Oral Argument

The Commission, upon its own motion, may hear oral argument from the parties to the proceeding.

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Section 763.460 Additional Hearings

Before issuance of a final order by the Commission, the Hearing Examiner may, on his or her own motion or when directed by the Commission, hold additional hearings.

Section 763.470 Reopening on Motion of the Commission

After issuance of an order by the Commission, the Commission may, on its own motion, reopen any proceeding when it has reason to believe that conditions of fact or law have so changed as to require, or that the public interest requires, such reopening.

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1) Heading of the Part: Arbitration Practice2) Code Citation: 83 Ill. Adm. Code 7613) Section Numbers: Proposed Action:

761.10 New Section
 761.20 New Section
 761.30 New Section
 761.40 New Section
 761.50 New Section
 761.100 New Section
 761.110 New Section
 761.130 New Section
 761.140 New Section
 761.150 New Section
 761.200 New Section
 761.210 New Section
 761.220 New Section
 761.230 New Section
 761.240 New Section
 761.300 New Section
 761.310 New Section
 761.320 New Section
 761.330 New Section
 761.340 New Section
 761.350 New Section
 761.360 New Section
 761.370 New Section
 761.380 New Section
 761.400 New Section
 761.410 New Section
 761.420 New Section
 761.430 New Section
 761.440 New Section
 761.450 New Section
 761.460 New Section
 761.470 New Section

4) Statutory Authority: Implementing Section 252 of the Communications Act of 1934 (47 U.S.C. 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].5) Effective Date of Rules: May 16, 19976) Does this rulemaking contain an automatic repeal date? No7) Do these rules contain incorporations by reference? No

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8) Date filed in Agency's Principal Office: May 12, 19979) Notice of Proposal Published in Illinois Register: June 28, 1996, at 20 Ill. Reg. 841610) Has JCAR issued a Statement of Objections to these rules? Yes. November 1, 1996, 20 Ill. Reg. 14284. Filing prohibition withdrawn, May 2, 1997, 21 Ill. Reg. 565911) Differences between proposal and final version:

Added Section 761.50

Section 761.20: Added "including Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]".

Section 761.300: Deleted originally proposed language and replaced it with current language.

Section 761.400(a): Added "if they refer to testimony or evidence adduced at the arbitration hearings."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes13) Will these rules replace emergency rules currently in effect? Yes14) Are there any amendments pending on this Part? No15) Summary and Purpose of Rules: These rules are a response to the Telecommunications Act of 1996 (P.L. 104-104), that places certain responsibilities on state agencies with regulatory responsibilities over telecommunications carriers, among them being the arbitration of disputes between carriers when an interconnection agreement cannot be reached by negotiation between the carriers. These rules provide rules of practice that are specifically designed to implement arbitration proceedings under Section 252 of the Telecommunications Act of 1996. The Commission has established the requirements for the form, filing, and the service of documents in the arbitration proceeding, discovery, and the procedure prior to, during, and following the arbitration proceeding.16) Information and questions regarding these adopted rules shall be directed to:

Conrad Rubinkowski
 Office of General Counsel
 Illinois Commerce Commission
 527 East Capitol Avenue
 P.O. Box 19280

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Springfield, IL 62794-9280
Phone: (217)785-3922
Fax: (217)524-9280

The full text of the Adopted Rules begins on the next page:

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TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 761

ARBITRATION PRACTICE

SUBPART A: GENERAL PROVISIONS

Section	Procedure Governed
761.10	Deviation from this Part
761.20	Definitions
761.30	Authority of Hearing Examiner
761.40	Federal Preemption of State Court Review
761.50	

SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS

Section	Communications to the Commission
761.100	Filing of Petition for Arbitration
761.110	Contents of Documents
761.130	Copies of Documents
761.140	Service
761.150	

SUBPART C: PRE-ARBITRATION PROCEDURE AND DISCOVERY

Section	Pre-arbitration Conferences
761.200	Schedule of Pre-arbitration Procedure and Discovery
761.210	Failure to Comply with a Discovery Order or a Subpoena
761.220	Motion to Quash Subpoena
761.230	Protective Orders
761.240	

SUBPART D: ARBITRATION PROCEDURE

Section	Disqualification of Hearing Examiner
761.300	Arbitration Hearing Procedure
761.310	Transcripts
761.320	Consolidation and Severance
761.330	Information to be Adduced at Arbitration
761.340	Information to be Under Oath or Affirmation
761.350	Stipulation of Facts
761.360	Exhibits
761.370	Ex Parte Communications
761.380	

SUBPART E: POST-HEARING PROCEDURE

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Section

- 761.400 Briefs
- 761.410 Draft Proposed Arbitration Decisions
- 761.420 Hearing Examiner's Proposed Arbitration Decision
- 761.430 Exceptions; Reply
- 761.440 Filing of Briefs
- 761.450 Oral Argument
- 761.460 Additional Hearings
- 761.470 Reopening on Motion of the Commission

AUTHORITY: Implementing Section 252 of the Communications Act of 1934 (47 U.S.C. 252) and Section 10-101 of the Public Utilities Act and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].

SOURCE: Emergency rules adopted at 20 Ill. Reg. 8541, effective June 18, 1996, for a maximum of 150 days; emergency rules suspended at 20 Ill. Reg. 14289, effective November 1, 1996; emergency suspension lifted at 21 Ill. Reg. 5660, effective May 2, 1997; amended at 21 Ill. Reg. ~~6468~~, effective

SUBPART A: GENERAL PROVISIONS

Section 761.10 Procedure Governed

This Part governs practice and procedure before the Illinois Commerce Commission (Commission) in the arbitration proceedings required by Section 252(b) of the Communications Act of 1934 (47 U.S.C. 252(b)).

Section 761.20 Deviation from this Part

To the extent permitted by law, including Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] any provision of this Part may be waived, suspended or modified by the Commission or an Examiner, either upon their own motion or upon motion by any person.

Section 761.30 Definitions

Unless otherwise defined, the following terms as used in this Part shall have the following meanings:

"Commissioner" means a member of the Commission.

"Documents" means petitions, responses, amended and supplemental petitions, written discovery, responses to discovery, verified statements, verified exhibits, depositions, motions, responses, replies, notices, proposed arbitration decisions, exceptions to Hearing Examiners' proposed arbitration decisions, briefs, draft proposed arbitration decisions, and similar writings.

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"Hearing Examiner" means a person employed by the Commission under Section 2-106 of the Public Utilities Act, who is assigned to conduct arbitration proceedings pursuant to Section 252 of the Communications Act of 1934 (47 U.S.C. 252). A Commissioner may also serve as a Hearing Examiner for purposes of this Part.

"Party" means any person who initiates a Commission proceeding by filing a petition for arbitration or a person entitled to file a response to a petition for arbitration pursuant to Section 252(b)(3) of the Communications Act of 1934. Staff is not a party but shall have the specific rights and duties of parties as enumerated in this Part. No other person shall be granted party status or be allowed to intervene.

"Person" means any individual, partnership, corporation, governmental body or unincorporated association.

"Petitioner" means a party who, by written petition, applies for or seeks relief through arbitration pursuant to Section 252(b) of the Communications Act of 1934.

"Pleading" means any petition, motion, reply or response filed in writing with the Commission in an arbitration proceeding.

"Respondent" means a party against whom a petition is filed.

"Staff" or "Commission Staff" means individuals employed by the Commission. For purposes of this Part, a Hearing Examiner is not considered a member of the Commission Staff.

Section 761.40 Authority of Hearing Examiner

a) The Hearing Examiner shall have authority over the conduct of an arbitration and the responsibility for submission of the matter to the Commission for decision. The Hearing Examiner shall have those duties and powers necessary to these ends, including the following:

- 1) To conduct arbitration hearings and pre-hearing conferences;
- 2) To direct parties to serve verified statements and exhibits and establish a date certain for service;
- 3) To conduct discovery of the parties;
- 4) To supervise all or any part of any discovery procedure;
- 5) To administer oaths and affirmations;
- 6) To ensure that the arbitration is conducted in a full, fair and impartial manner, that order is maintained and that unnecessary delay is avoided in the disposition of the proceedings;
- 7) To examine witnesses and allow parties to examine an adverse party or agent;
- 8) To rule upon all matters which do not result in the final

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determination of the proceeding;

- 9) To call upon any person at any stage of the arbitration proceeding to produce witnesses or information that is material and relevant to any issue;
 - 10) To issue proposed arbitration decisions pursuant to Section 761.420 of this Part; and
 - 11) To issue protective orders in accordance with 83 Ill. Adm. Code 761.240 of this Part.
- b) Any party who fails to comply with an order of the Hearing Examiner may be limited in its presentation of information during the arbitration proceeding.

Section 761.50 Federal Preemption of State Court Review

No State court shall have jurisdiction to review the action of the Commission in approving or rejecting an agreement under Section 252 of the Communications Act of 1934.

SUBPART B: FORM, FILING AND SERVICE OF DOCUMENTS

Section 761.100 Communications to the Commission

All documents to be filed with or submitted to the Commission shall be addressed to: The Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62706. All formal communications and documents are deemed to be officially filed or submitted only when delivered to the principal office of the Commission. The Chief Clerk is the official custodian of all Commission records.

Section 761.110 Filing of Petition for Arbitration

- a) All petitions for arbitration:
 - 1) Shall clearly set forth on their first page the date upon which the original request for negotiation under Section 252 of the Communications Act of 1934 (47 U.S.C. 252) was received by the incumbent local exchange carrier and the dates 135 days, 160 days, and 9 months thereafter;
 - 2) Shall be filed during the period from the 135th to the 160th day (inclusive) after the date on which the incumbent local exchange carrier received the request for negotiation under Section 252 of the Communications Act of 1934 (47 U.S.C. 252);
 - 3) Shall be verified; and
 - 4) Shall be accompanied by the Petitioner's discovery requests.
- b) The party petitioning the Commission shall, at the same time as it submits the petition, provide the Commission all relevant documentation concerning:
 - 1) The unresolved issues;
 - 2) The position of each of the parties with respect to those issues;

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- 3) Any other issue discussed and resolved by the parties.
- c) A petition for arbitration shall not be accepted for filing unless it is verified.
- d) All responses to a petition for arbitration shall be verified, and shall be accompanied by the verified written statements and verified exhibits of all witnesses the party proposes to call at the arbitration hearing.
- e) Verified responses and verified written statements and exhibits constituting respondent's support for its response shall be filed no more than 25 days after the filing of the petition for arbitration.

Section 761.130 Contents of Documents

- a) All documents submitted in arbitration proceedings before the Commission shall display the docket number of the proceeding. Documents initiating a new arbitration proceeding shall leave a space for the docket number. All documents shall also include the full name, address and telephone number of the person or the representative of the person filing the document.
- b) The original of every document filed with the Commission shall be signed by the party filing the same or by an officer or agent. The factual assertions contained in all documents shall be verified by the filing party before a notary public. The verification shall be in form and substance as follows:

I, _____, do on oath depose and state that the facts contained in the foregoing document are true and correct to the best of my knowledge and belief.

SIGNATURE OF PERSON VERIFYING DOCUMENT

SIGNED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 199__.

NOTARY PUBLIC

Section 761.140 Copies of Documents

All documents shall be filed with the Chief Clerk in one original and two copies, unless otherwise specified in this Part.

Section 761.150 Service

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- a) All documents shall be deemed filed on the date received by the Chief Clerk of the Commission. Service on the Chief Clerk of the Commission cannot be made by telephone facsimile. All documents shall be served upon the parties to the arbitration proceeding on the day they are filed with the Chief Clerk of the Commission.
- b) Proof of service of any paper shall be by certificate of attorney, acknowledgement of receipt, or affidavit.

SUBPART C: PRE-ARBITRATION PROCEDURE AND DISCOVERY

Section 761.200 Pre-arbitration Conferences

- a) Upon direction of the Commission or on his or her own motion, the Hearing Examiner may request all parties to attend a pre-arbitration conference. Notice of the pre-arbitration conference shall be given in writing, telephone, or telephone facsimile not later than 24 hours before the pre-arbitration conference. Such a conference may be held for any purpose, including, but not limited to:
 - 1) Scheduling;
 - 2) Identification and simplification of issues;
 - 3) Amendments to documents;
 - 4) Limitations on the number of witnesses;
 - 5) The issuance of rulings denying, limiting, conditioning or regulating discovery;
 - 6) The issuance of rulings supervising all or any part of any discovery procedure; and
 - 7) Such other matters as may aid in the simplification of the issues and disposition of the proceeding.

Section 761.210 Schedule of Pre-arbitration Procedure and Discovery

In the absence of a schedule established at a pre-arbitration conference held under Section 761.200 of this Part, proceedings under this Part will be conducted under the following schedule:

- a) Respondent files and serves discovery responses and requests for discovery on Petitioner no later than 7 days after filing of the petition for arbitration;
- b) Petitioner files and serves verified written statements and exhibits of all witnesses it proposes to call at the arbitration hearing, along with responses to Respondent's discovery requests, no later than 14 days from the filing of the petition for arbitration;
- c) Respondent files and serves verified response to petition, and all documents required by Sections 761.110 and 761.120 of this Part no later than 25 days after the filing of the petition for arbitration;
- d) Staff files and serves requests for discovery of Petitioner and Respondent no later than 32 days after the filing of the petition;
- e) Petitioner and Respondent file and serve discovery responses no later than 7 days after the service of Staff's requests for discovery;

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- f) Staff files and serves verified written statements and exhibits no later than 46 days from the filing of the petition for arbitration;
- g) Petitioner and Respondent file and serve requests for discovery of Staff no later than 53 days after the filing of the petition for arbitration;
- h) Staff files and serves discovery responses no later than 60 days after the filing of the petition for arbitration;
- i) Petitioner and Respondent file supplemental verified written statements and exhibits of the witnesses they propose to call at the arbitration hearing in order to respond to Staff's verified written statements and exhibits 64 days from the filing of the petition for arbitration.

Section 761.220 Failure to Comply with a Discovery Order or a Subpoena

If a person or party fails to comply with a discovery order or refuses to attend or be sworn at an arbitration hearing, the Hearing Examiner may: suspend proceedings until compliance is obtained; strike all or any part of the documents of such party; refuse to allow the party to support designated claims or defenses; or proceed on the basis of the best information available from whatever source derived.

Section 761.230 Motion to Quash Subpoena

The Hearing Examiner, upon motion, may quash or modify a subpoena or request for discovery.

Section 761.240 Protective Orders

At any time during the pendency of a proceeding, the Commission or the Hearing Examiner may, on the motion of any person, enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies.

SUBPART D: ARBITRATION PROCEDURE

Section 761.300 Disqualification of Hearing Examiner

- a) A Hearing Examiner assigned to a proceeding may, upon written request to and approval of the Chief Hearing Examiner, recuse himself or herself from the proceeding.
- b) Whenever any party believes a Hearing Examiner for any reason should be disqualified from conducting, or continuing to conduct, a proceeding assigned to him or her, such party may file a motion to disqualify the Hearing Examiner, setting forth by affidavit the alleged grounds for disqualification. The Hearing Examiner shall have 5 days after filing of the motion within which to enter a written ruling thereon. A copy of such ruling shall be served upon all

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parties.

- c) Any ruling by a Hearing Examiner denying a request for recusal under this Section may be reviewed by the Commission. Review shall be sought no more than 3 days from the denial of the motion to recuse or disqualify. The party seeking review of the ruling shall file with the Chief Clerk a verified petition, together with any offer of proof, and shall serve a copy of the petition upon the Hearing Examiner and all parties to the proceeding. Other parties and the staff representative may file responses within 3 days after the filing of the petition. The Hearing Examiner shall have 3 days from the filing of the petition within which to file a report to the Commission with the Chief Clerk, who shall serve copies of such report on the parties and staff representative.

Section 761.310 Arbitration Hearing Procedure

- a) Arbitration hearings shall be commenced not later than 67 days from the filing of the petition for arbitration.
- b) The party filing the petition for arbitration shall begin the arbitration by presenting all of its witnesses to be cross-examined. The party filing the response to the petition for arbitration shall then present all of its witnesses to be cross-examined. Finally, Staff shall present all of its witnesses to be cross-examined.
- c) Where the parties jointly file the petition for arbitration, the Hearing Examiner shall decide the order in which the parties shall present their witnesses for cross-examination.
- d) The Hearing Examiner will specify whether certain witnesses may be presented as a panel for cross-examination.

Section 761.320 Transcripts

- a) A complete record of all arbitrations conducted under this Part, including oral arguments before the Commission or Hearing Examiner, shall be transcribed by a reporter appointed by the Commission. In the event that expedited transcripts are required, the cost of preparation shall be borne by Petitioner.
- b) Suggested corrections to the transcript of record must be filed within 7 days from the day on which the hearing is held or at such other time as prescribed by the Hearing Examiner, and shall be in writing and served upon each party, the official reporter and the Hearing Examiner.
- c) Objections to suggested corrections shall be filed within 5 days after the filing of the suggestions, unless otherwise prescribed by the Hearing Examiner. The Hearing Examiner shall determine what changes, if any, shall be made in the record.
- d) If no objection is made to the suggested corrections, the Hearing Examiner may, in his or her discretion, direct the corrections to be made and the manner of making them. The purpose of this determination

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shall be to ensure the accuracy of the arbitration record.

Section 761.330 Consolidation and Severance

- a) Where not inconsistent with the requirements of the Communications Act of 1934, the Commission or Hearing Examiner may, to the extent practical, order the consolidation of two or more proceedings under Section 252(b) of the Communications Act of 1934 in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under Section 252 of the Communications Act of 1934.
- b) Where not inconsistent with the requirements of the Communications Act of 1934, the Commission or Hearing Examiner may, to the extent practical, order the severance of two or more proceedings previously consolidated under subsection (a) of this Section in order to reduce administrative burdens on telecommunications carriers and the Commission in carrying out its responsibilities under Section 252 of the Communications Act of 1934 or order the severance of issues from a proceeding in those instances where the issues need not be decided within the time limit set in the Communications Act of 1934 for the Commission's decision on the arbitration.

Section 761.340 Information to be Adduced at Arbitration

- a) In all proceedings subject to this Part, irrelevant, immaterial or unduly repetitious information shall be excluded. Relevant information may be admitted at the arbitration if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs.
- b) Whenever a verified statement or exhibit contains language and/or figures that differ from the exhibit offered, the sponsoring party shall indicate all changes in writing either on a corrective sheet or the actual exhibit shall have the corrected language and/or figures so designated.
- c) Any information offered in whatever form shall be subject to appropriate and timely objection. The Hearing Examiner may, either with or without objection, exclude irrelevant, immaterial, unduly repetitious or otherwise inadmissible information.

Section 761.350 Information to be Under Oath or Affirmation

All orally presented information to be considered by the Commission at the arbitration shall be sworn or affirmed. All other information submitted at the arbitration shall be verified pursuant to Section 761.130(b) of this Part.

Section 761.360 Stipulation of Facts

The parties to any arbitration before the Commission may, by written

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stipulation filed with the Commission or by oral stipulation entered in the record, agree upon the facts or any part thereof related to the contested issues in the arbitration. Notwithstanding the stipulation of the parties, the Commission or the Hearing Examiner may require further information in support of the facts so stipulated.

Section 761.370 Exhibits

- a) All exhibits shall be marked numerically and/or alphabetically with a party designation and shall conform to the requirements of Section 761.130 of this Part.
- b) When exhibits are identified for the record, unless the Hearing Examiner directs otherwise, an original and two copies shall be offered at the arbitration and a copy provided to the Hearing Examiner and to each party.

Section 761.380 Ex Parte Communications

- a) The provisions of Section 10-60 of the Illinois Administrative Procedure Act [5 ILCS 100/10-60] shall apply in full to Commission arbitration proceedings that are subject to this Part. The provisions of Section 10-60 shall not apply, however, to communications between Commission employees who are engaged in investigatory or advocacy functions and other parties to the arbitration proceeding, provided that such Commission employees are still prohibited from communicating on an ex parte basis, as designated in Section 10-60, directly or indirectly, with members of the Commission, any Hearing Examiner in the proceeding, or any Commission employee who is or may reasonably be expected to be involved in the decisional process of the proceeding.
- b) Any Commissioner, Hearing Examiner, or other Commission employee who is or may reasonably be expected to be involved in the decisional process of a proceeding, who receives, or who makes or knowingly causes to be made, a communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act as modified by Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103] shall place on the public record of the proceeding:
 - 1) All such written communications;
 - 2) Memoranda stating the substance of all such oral communications; and
 - 3) All written responses and memoranda stating the substance of all oral responses to the materials described in subsections (b)(1) and (2). [220 ILCS 5/10-103]

- c) The material specified in subsection (b) shall be disclosed to the parties of record by:
 - 1) Service on the parties at the arbitration; or
 - 2) If no arbitration is scheduled within the next seven days, service by hand delivery, overnight mail or courier service or telephone facsimile on all parties to the arbitration.

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SUBPART E: POST-HEARING PROCEDURE

Section 761.400 Briefs

- a) At the close of the arbitration, the Hearing Examiner or the Commission may order the parties to file a brief. Parties must use transcript citations if they refer to testimony or evidence adduced at the arbitration hearings. In the discretion of the Commission or the Hearing Examiner, failure to use transcript citations may result in rejection of all or part of the brief.
- b) Briefs shall be concise, and, if in excess of 20 pages, excluding appendices, shall contain:
 - 1) A table of contents;
 - 2) A short statement of the case;
 - 3) A summary of the position of the party filing; and
 - 4) Argument.

Section 761.410 Draft Proposed Arbitration Decisions

The Hearing Examiner may permit or require a party or parties to file draft proposed arbitration decisions.

Section 761.420 Hearing Examiner's Proposed Arbitration Decision

The Hearing Examiner presiding shall, after the close of the arbitration, prepare a proposed arbitration decision, including a statement of findings and conclusions and the reasons or basis therefor, on all the material issues of fact, law or discretion presented on the record. Such proposed arbitration decision, shall be served by the Chief Clerk of the Commission on all parties to the arbitration.

Section 761.430 Exceptions; Reply

- a) The parties may file exceptions to the Hearing Examiner's proposed decision at such time as is fixed by the Hearing Examiner or the Commission. The Hearing Examiner or the Commission may also require the parties to file as a reply "Brief in Reply to Exceptions."
- b) Exceptions and replies to exceptions with respect to statements, findings of fact or rulings of law must be specific and must be stated and numbered separately in the brief. When exception is taken or a reply is made as to a statement or finding of fact, a suggested replacement statement or finding must be incorporated. Exceptions and replies may contain written arguments in support of the position taken by the party or staff representative filing such exceptions or reply.

Section 761.440 Filing of Briefs

An original and 11 copies of all briefs shall be filed with the Commission.

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Section 761.450 Oral Argument

The Commission, upon its own motion, may hear oral argument from the parties to the arbitration.

Section 761.460 Additional Hearings

Before issuance of a final order by the Commission, the Hearing Examiner may, on his or her own motion or when directed by the Commission, hold additional hearings.

Section 761.470 Reopening on Motion of the Commission

After issuance of an order by the Commission, the Commission may, on its own motion, reopen any proceeding when it has reason to believe that conditions of fact or law have so changed as to require, or that the public interest requires, such reopening.

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Consignment of Licenses, Stamps and Permits2) Code Citation: 17 Ill. Adm. Code 2520

3) Section Numbers: Adopted Action:
 2520.10 Amendments
 2520.20 Amendments
 2520.30 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

5) Effective Date of Rulemaking: May 19, 19976) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No8) Date filed in Agency's Principal Office: May 19, 19979) Notice of Proposal Published in Illinois Register: February 14, 1997, 21 Ill. Reg. 174810) Has JCAR issued a Statement of Objections to these rules? No11) Difference(s) between proposal and final version:

In 2520.10(a), "Ginseng Harvester" was changed to "ginseng harvester".

In 2520.10(b), "Section 2520.10" was changed to "subsection (a)" and "Part" was changed to "Section".

In 2520.10(c), "sub agents" was changed to "sub-agents".

In 2520.20(b), "Trapping" was changed to "trapping"; "Habitat" to "habitat"; and "Ginseng Harvester" to "ginseng harvester".

In 2520.30(a), "department" was changed to "Department"; "the remittance schedule in Section 2520.30(c)" was changed to "subsection (c) of this Section".

In 2520.30(b), "according to the schedule in" was changed to "as provided in" and "according to the remittance schedule" was changed to "as provided by subsection (c)".

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In 2520.30(c), "The remittance ~~schedules~~ are schedule is as follows:" was deleted.

In 2520.30(d), "remittance period" was replaced with "month" and "remittance periods" was replaced with "months".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: These amendments eliminate irrevocable letters of credit for financial evidence, simplify the requirements for vendors to receive a preferred status, and modify the remittance schedule.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2520

CONSIGNMENT OF LICENSES, STAMPS AND PERMITS

Section

2520.10 Consignment Requirements

2520.20 Issuing Licenses, Stamps and Permits

2520.30 Terms

2520.40 Credit to Vendor Accounts

2520.50 Issuance of Replacement Hunting, Fishing and Trapping Licenses, Stamps and Permits

AUTHORITY: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

SOURCE: Adopted and codified at 7 Ill. Reg. 8760, effective July 15, 1983; amended at 8 Ill. Reg. 5660, effective April 16, 1984; amended at 9 Ill. Reg. 14626, effective September 17, 1985; amended at 11 Ill. Reg. 4633, effective March 10, 1987; amended at 15 Ill. Reg. 7653, effective May 7, 1991; amended at 16 Ill. Reg. 8479, effective May 26, 1992; amended at 18 Ill. Reg. 9991, effective June 21, 1994; amended at 19 Ill. Reg. 7541, effective May 26, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 14417, effective October 25, 1996; amended at 21 Ill. Reg. ~~6483~~, effective ~~May 14, 1997~~.

Section 2520.10 Consignment Requirements

- a) The Department of Natural Resources (DNR) has the authority to designate agents to sell licenses, stamps and permits on behalf of the Department. DNR consigns hunting, fishing, trapping and ginseng harvester ~~Ginseng-Harvester~~ licenses, migratory waterfowl, salmon and wildlife conservation stamps, and deer archery combination permits, hereinafter referred to as licenses, stamps and permits, for sale by county, city, village, township and incorporated town clerks, upon receipt of their completed application and elected official license vendor contract, and fulfillment of requirements set forth in this Part. The Department also consigns the licenses, stamps and permits to other persons, hereinafter referred to as "direct agents", upon receipt of their completed application, license vendor contract, evidence of financial responsibility, and fulfillment of the requirements set forth in this Part. The term "direct agent" means

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all persons authorized by the Department to sell licenses, stamps and permits other than elected or appointed officials and department employees. License vendors, including employees of the Department selling licenses, stamps and permits, shall collect an issuing fee in addition to the license, stamp and permit fee as provided in 515 ILCS 5/20-120 and 520 ILCS 5/3.37 as follows: 75 cents for each Sportsmen's Combination license and non-resident hunting license, and 50 cents for all other licenses, stamps and permits authorized by the above statutes. All licenses, stamps and permits consigned and fees collected from the sale of licenses, stamps and permits (except the authorized issuing fee) remain the property of the State of Illinois. Funds received from the sale of licenses, stamps and permits (except the authorized issuing fee) shall not be directed to any purpose other than remittance to the Department.

- b) County, city, village, township and incorporated town clerks may appoint sub-agents within the territorial area for which they are elected or appointed. Elected or appointed officials and Department employees selling licenses, stamps and permits are liable to the State for all licenses, stamps and permits consigned to their account, including any licenses, stamps and permits furnished by a clerk to any sub-agent. Any clerk appointing sub-agents must notify the Department, within 10 days following the appointment, the names and mailing addresses of such sub-agents. No part of the issuing fees collected may be retained as personal compensation by the clerk. Issuing fees may be divided between the clerk and appointed sub-agents other than employees of the Clerk's office, but in no case may any clerk and/or sub-agent charge an issuing fee or fees totaling more than the amounts set out in subsection (a) ~~Section--2520-10~~ of this ~~Section Part~~. DNR assumes no liability for any license, stamp or permit furnished by any elected or appointed clerk to any sub-agent. All direct agents, including concessionaires holding contracts with the Department shall be required to furnish DNR with evidence of financial responsibility. Such evidence shall be in the form of a surety bond, ~~irrevocable~~ letter of credit or certificate of deposit, in an amount equal to the value of licenses, stamps and permits consigned with the exception of direct agents with a preferred status. Direct agents must meet the following qualifications to receive a preferred status:

- 1) The direct agent must sell licenses, stamps and permits for one complete license year.
- 2) ~~If--the-direct-agent-has-sold-licenses, stamps and permits--with-a value-of-\$16,000-00-or-more-during-the-previous-license-year--the Department-must-have-received-20-or-more-remittances-or-no-sales reports---if-the-direct-agent--has--sold-licenses, stamps and permits--with-a-value-of-\$15,999-99-or-less--during--the--previous license-year--the~~ The Department must have received 10 or more remittances or no sales reports during the previous license year.

If these qualifications are met the direct agent's consignments may

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total 50% over the amount of their financial evidence. All direct agents with a preferred status will be reviewed annually. If qualifications have been met, the preferred status will continue for the following license year. If the qualifications have not been met, the preferred status is removed and the direct agent will be consigned licenses, stamps and permits equal to the amount of financial evidence. Surety bonds and letters of credit shall be on a form furnished by and approved by DNR, with surety or sureties satisfactory to DNR, conditioned upon such agents paying to the State of Illinois all monies becoming due by reason of the sale of licenses, stamps and permits. No direct agent may appoint sub-agents.

(Source: Amended at 21 Ill. Reg. 6483, effective May 14, 1991)

Section 2520.20 Issuing Licenses, Stamps and Permits

- a) License, stamp and permit forms shall be filled out ~~completely~~ accurately and legibly at the time of issuance, and the full amount shall be collected as shown on the license face. In the case of stamps, the license fee plus the authorized issuing fee shall be collected, if the issuing fee is not shown on the face of the stamp. Vendors shall not back-date or issue an undated license.
- b) The application portion of each license shall be retained by the issuing clerk or agent until the license issued expires, except in the case of trapping ~~trapping~~ licenses, goose permit stubs ~~waterfowl stamps~~, ~~habitat~~ ~~Habitat~~ stamps, ginseng harvester ~~Stanseng-Harvester~~ licenses and deer archery combination permits, for which the completed application must accompany the remittance.

(Source: Amended at 21 Ill. Reg. 6483, effective May 14, 1991)

Section 2520.30 Terms

- a) When funds received in payment for licenses, stamps and permits are deposited in an interest bearing account and where fees collected by a vendor are determined to be late to the Department ~~department~~ according to subsection (c) of this ~~the-remittance-schedule-in~~ Section 2520-30(c), interest that has accrued through an interest bearing license account on the overdue funds will be remitted to the Department by separate check along with fees collected from the sale of such licenses, stamps and permits.
- b) All license vendors shall be required to remit to the Department, as provided ~~according-to-the-schedule~~ in subsection (c) below, all funds received from the sale of licenses, stamps and permits during the preceding remittance period except the authorized issuing fee. Vendors having licenses, stamps and permits on hand for sale, but who

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have sold none during the remittance period, shall report this fact to the Department, as provided by subsection (c), according to the remittance schedule by the use of a "no sales" report, furnished by the Department.

c) the remittance schedules are as follows: 1) Schedule--If--For--venders having sold licenses, stamps and permits with a value of--\$16,000--or more during a prior license year, remittance periods shall be from the 1st through the 15th of each month and the 16th through the last day of each month. Remittance shall be made to the Department no later than the 5th and 20th of each month for all licenses, stamps and permits sold during the previous remittance period. 2) Schedule If--For--venders having sold licenses, stamps and permits of a value of \$15,999 or less during the previous license year, the remittance period shall be each month. Remittance shall be made to the Department no later than the 10th of each month for all licenses, stamps and permits sold during the previous month.

d) Accounts more than one month remittance period past due shall have additional license consignments withheld until the account is current. Accounts two months remittance periods or more past due will cause the Department to cancel or withdraw the issuance of licenses through such clerks or agents. In the case of secured agents, payment will be demanded from the security company. In the case of secured agents with a preferred status, payment up to the amount of financial evidence will be demanded from the security company and the balance over the financial evidence will be referred to other agencies for assistance. No installment payment agreements will be accepted by DNR except pursuant to judgment decrees.

e) Within 30 days after the expiration of the time in which any class of license, stamp or permit is usable, the final payment for licenses, stamps and permits sold shall be made in full to the Department, and all unsold or void licenses, stamps and permits shall be returned to the Department. Accounts not closed out within the 30 days specified shall be suspended or terminated, and referred to the security company for action or referral to other agencies for assistance.

(Source: Amended at 21 Ill. Reg. 6483, effective 1/1/97)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Definitions and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 211
- 3) Section Number: 211.7150 Adopted Action: Amended
- 4) Statutory Authority: 415 ILCS 5/9.1(e) and 27
- 5) Effective Date of Amendments: May 16, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes, at Section 211.7150. However, these amendments do not affect those incorporations.

8) Date filed in Board's principal office: Order was adopted in R97-17 on May 15, 1997.

9) Notice of proposal published in Illinois Register: March 21, 1997, 21 Ill. Reg. 3393

10) Has JCAR issued a statement of objections to these rules? Section 9.1(e) of the Environmental Protection Act (Act) [415 ILCS 5/9.1(e)] provides that Section 5 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-35 and 5-40] shall not apply. Because this rule is not subject to Section 5 of the IAPA, it is not subject to first notice or to second notice review by JCAR.

11) Differences between proposed and final version: None

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Section 9.1(e) of the Environmental Protection Act (Act) [415 ILCS 5/9.1(e)] provides that Section 5 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-35 and 5-40] shall not apply. Because this rule is not subject to Section 5 of the IAPA, it is not subject to first notice or to second notice review by JCAR.

13) Will these amendments replace an emergency rule currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
211.1885	New	21 Ill. Reg. 1754 (February 14, 1997)
211.2285	New	21 Ill. Reg. 329 (January 3, 1997)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of amendments: Section 9.1(e) of the Environmental Protection Act requires the Board to adopt regulations which are "identical in substance" with federal regulations promulgated by the United States Environmental Protection Agency (USEPA) to reflect the most recent USEPA exemption of compounds from regulation as ozone precursors. The amendment provides that HFC43-10mee and HCFC225ca and cb are exempted from the definition of VOM, and, thus are exempted from regulation for control of ozone precursors. The proposed amendments exempting HFC 43-10mee and HCFC 225ca and cb as VOMs were adopted by USEPA at 61 Fed. Reg. 52848 (October 8, 1996).

A more detailed description is contained in the Board's opinion of May 15, 1997, in R97-17. The opinion is available from the address below.

- 16) Information and questions regarding the adopted amendments shall be directed to:

Amy Muran Felton, Attorney
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, IL 60601
312/814-7011

Request for copies of the May 15, 1997 opinion should be addressed to Victoria Agyeman, at 312/814-3620 or at the above address and should reference Docket R97-17.

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS
SUBPART A: GENERAL PROVISIONS

Section	Incorporations by Reference Abbreviations and Units
211.101	
211.102	
	SUBPART B: DEFINITIONS

Section	Other Definitions
211.121	Definitions (Repealed)
211.122	Accelacota
211.130	Accumulator
211.150	Acid Gases
211.170	Actual Heat Input
211.210	Adhesive
211.230	Adhesion Promoter
211.240	Aeration
211.250	Aerosol Can Filling Line
211.270	Afterburner
211.290	Air Contaminant
211.310	Air Dried Coatings
211.330	Air Oxidation Process
211.350	Air Pollutant
211.370	Air Pollution
211.390	Air Pollution Control Equipment
211.410	Air Suspension Coater/Dryer
211.430	Airless Spray
211.450	Air Assisted Airless Spray
211.470	Alcohol
211.474	Animal
211.484	Animal Pathological Waste
211.485	Annual Grain Through-Put
211.490	Anti-Glare/Safety Coating
211.495	Application Area
211.510	Architectural Coating
211.530	As Applied
211.550	As-Applied Fountain Solution
211.560	Asphalt
211.570	

POLLUTION CONTROL BOARD

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211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.730	Binders
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant
211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process

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211.1410	Condensate	211.1890	Electrostatic Bell or Disc Spray
211.1430	Condensable PM-10	211.1900	Electrostatic Prep Coat
211.1465	Continuous Automatic Stoking	211.1910	Electrostatic Spray
211.1470	Continuous Process	211.1920	Emergency or Standby Unit
211.1490	Control Device	211.1930	Emission Rate
211.1510	Control Device Efficiency	211.1950	Emission Unit
211.1530	Conventional Soybean Crushing Source	211.1970	Enamel
211.1550	Conveyorized Degreasing	211.1990	Enclose
211.1570	Crude Oil	211.2010	End Sealing Compound Coat
211.1590	Crude Oil Gathering	211.2030	Enhanced Under-the-Cup Fill
211.1610	Crushing	211.2050	Ethanol Blend Gasoline
211.1630	Custody Transfer	211.2070	Excess Air
211.1650	Cutback Asphalt	211.2090	Excessive Release
211.1670	Daily-Weighted Average VOM Content	211.2110	Existing Grain-Drying Operation (Repealed)
211.1690	Day	211.2130	Existing Grain-Handling Operation (Repealed)
211.1710	Degreaser	211.2150	Exterior Base Coat
211.1730	Delivery Vessel	211.2170	Exterior End Coat
211.1750	Dip Coating	211.2190	External Floating Roof
211.1770	Distillate Fuel Oil	211.2210	Extreme Performance Coating
211.1780	Distillation Unit	211.2230	Fabric Coating
211.1790	Drum		
211.1810	Dry Cleaning Operation or Dry Cleaning Facility		
211.1830	Dump-Pit Area		
211.1850	Effective Grate Area		
211.1870	Effluent Water Separator		
211.1875	Elastomeric Materials		
211.1880	Electromagnetic Interference/Radio Frequency (EMI/RFI) Shielding		
	Coatings		
	Electrostatic Bell or Disc Spray		
	Electrostatic Prep Coat		
	Electrostatic Spray		
	Emergency or Standby Unit		
	Emission Rate		
	Emission Unit		
	Enamel		
	Enclose		
	End Sealing Compound Coat		
	Enhanced Under-the-Cup Fill		
	Ethanol Blend Gasoline		
	Excess Air		
	Excessive Release		
	Existing Grain-Drying Operation (Repealed)		
	Existing Grain-Handling Operation (Repealed)		
	Exterior Base Coat		
	Exterior End Coat		
	External Floating Roof		
	Extreme Performance Coating		
	Fabric Coating		

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211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2630	Gloss Reducers
211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2830	Heatset
211.2850	Heatset-Web-Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3110	Ink
211.3130	In-Process Tank

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211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3480	Loading Event
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles

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211.3965	Motor Vehicle Refinishing	211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.3970	Multiple Package Coating	211.4830	Polyester Resin Material(s)
211.3990	New Grain-Drying Operation (Repealed)	211.4850	Polyester Resin Products Manufacturing Process
211.4010	New Grain-Handling Operation (Repealed)	211.4870	Polystyrene Plant
211.4030	No Detectable Volatile Organic Material Emissions	211.4890	Polystyrene Resin
211.4050	Non-contact Process Water Cooling Tower	211.4910	Portable Grain-Handling Equipment
211.4055	Non-Flexible Coating	211.4930	Portland Cement Manufacturing Process Emission Source
211.4065	Non-Heatset	211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4070	Offset	211.4970	Potential to Emit
211.4090	One Hundred Percent Acid	211.4990	Power Driven Fastener Coating
211.4110	One-Turn Storage Space	211.5010	Precoat
211.4130	Opacity	211.5030	Pressure Release
211.4150	Opaque Stains	211.5050	Pressure Tank
211.4170	Open Top Vapor Degreasing	211.5060	Pressure/Vacuum Relief Valve
211.4190	Open-Ended Valve	211.5061	Pretreatment Wash Primer
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility	211.5065	Primary Product
		211.5070	Prime Coat
211.4230	Organic Compound	211.5080	Prime Sealer
211.4250	Organic Material and Organic Materials	211.5090	Primer Surfacer Coat
211.4260	Organic Solvent	211.5110	Primer Surfacer Operation
211.4270	Organic Vapor	211.5130	Primers
211.4290	Oven	211.5150	Printing
211.4310	Overall Control	211.5170	Printing Line
211.4330	Overvarnish	211.5185	Process Emission Source
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility	211.5190	Process Emission Unit
		211.5210	Process Unit
211.4370	Owner or Operator	211.5230	Process Unit Shutdown
211.4390	Packaging Rotogravure Printing	211.5245	Process Vent
211.4410	Packaging Rotogravure Printing Line	211.5250	Process Weight Rate
211.4430	Pail	211.5270	Production Equipment Exhaust System
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant	211.5310	Publication Rotogravure Printing Line
211.4470	Paper Coating	211.5330	Purged Process Fluid
211.4490	Paper Coating Line	211.5340	Rated Heat Input Capacity
211.4510	Particulate Matter	211.5350	Reactor
211.4530	Parts Per Million (Volume) or PPM (Vol)	211.5370	Reasonably Available Control Technology (RACT)
211.4550	Person	211.5390	Reclamation System
211.4590	Petroleum	211.5410	Refiner
211.4610	Petroleum Liquid	211.5430	Refinery Fuel Gas
211.4630	Petroleum Refinery	211.5450	Refinery Fuel Gas System
211.4650	Pharmaceutical	211.5470	Refinery Unit or Refinery Process Unit
211.4670	Pharmaceutical Coating Operation	211.5480	Reflective Argon Coating
211.4690	Photochemically Reactive Material	211.5490	Refrigerated Condenser
211.4710	Pigmented Coatings	211.5500	Regulated Air Pollutant
211.4730	Plant	211.5510	Reid Vapor Pressure
211.4740	Plastic Part	211.5530	Repair
211.4750	Plasticizers	211.5550	Repair Coat
211.4770	PW-10	211.5570	Repaired
211.4790	Pneumatic Rubber Tire Manufacture	211.5590	Residual Fuel Oil

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211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Prime Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argon Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5590	Residual Fuel Oil

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211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating
211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5870	Screening
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine
211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank

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211.6400	Stencil Coat
211.6410	Storage Tank or Storage Vessel
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6790	Turnaround
211.6810	Two-Piece Can
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6890	Vacuum Producing System
211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated
211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat

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211.7210 Wastewater (Oil/Water) Separator
 211.7230 Weak Nitric Acid Manufacturing Process
 211.7250 Web
 211.7270 Wholesale Purchase - Consumer
 211.7290 Wood Furniture
 211.7310 Wood Furniture Coating
 211.7330 Wood Furniture Coating Line
 211.7350 Woodworking
 211.7400 Yeast Percentage

APPENDIX A Rule into Section Table
 APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 10, 27 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective

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February 7, 1996; amended in R97-17 at 21 Ill. Reg. 6489, effective MAY 1 1997.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material (VOM)" or "volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;
 ethane;
 methylene chloride (dichloromethane);
 1,1,1-trichloroethane (methyl chloroform);
 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
 trichlorofluoromethane (CFC-11);
 dichlorodifluoromethane (CFC-12);
 chlorodifluoromethane (CFC-22);
 trifluoromethane (HFC-23);
 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
 chloropentafluoroethane (CFC-115);
 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);
 1,1,1,2-tetrafluoroethane (HFC-134a);
 1,1-dichloro-1-fluoroethane (HCFC-141b);
 1-chloro-1,1-difluoroethane (HCFC-142b);
 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
 pentafluoroethane (HFC-125);
 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
 1,1,2,2,3-pentafluoropropane (HCFC-225cb);
 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee);
 1,1,2,2-tetrafluoroethane (HFC-134);
 1,1,1-trifluoroethane (HFC-143a);
 1,1-difluoroethane (HFC-152a); and
 perfluorocarbon parachlorobenzotrifluoride (PCBTFF);
 perchloroethylene (tetrachloroethylene);
 cyclic, branched, or linear completely-methylated siloxanes;
 acetone (2-propanone or dimethylketone);
 and perfluorocarbon compounds which fall into these classes:

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- 1) Cyclic, branched, or linear, completely fluorinated alkanes;
 - 2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 - 3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 - 4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- b) For purposes of determining VOM emissions and compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR Part 60, Appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112 and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued pursuant to a program approved or promulgated under Title V of the Clean Air Act; under 40 CFR Part 51, Subpart I or Appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under 40 CFR Part 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusions is approved by the Agency.
- c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
- d) The USEPA shall not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b) above.

(Source: Amended at 21 Ill. Reg. 6489, effective 11/14/14)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Existing Activities in a Setback Zone or Regulated Recharge Area
- 2) Code Citation: 35 Ill. Adm. Code 615
- 3) Section Numbers: Adopted Action:
615.102 Amended
615.204 Amended
615.462 Amended
- 4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].
- 5) Effective Date of Rule: May 8, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Rule contain incorporations by reference? No
- 8) Date filed in Board's Principal Office: Amended petition filed on September 4, 1996, and second amended petition filed on October 16, 1996.
- 9) Notice of Proposal Published in Illinois Register: December 20, 1996, 20 Ill. Reg. 15863
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this Rule replace an emergency Rule currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Rule: The changes to Part 615 are part of a comprehensive rulemaking which includes Parts 601 through 620. A complete description of that rulemaking is included in the Board's May 1, 1997 opinion and order in Docket R96-18, which is available at the address below. Specifically, the rulemaking completes many non-substantive "housekeeping" items, including updating of citations, and amends definitions to reflect current concerns in protection of public water supplies. It also contains two substantive matters. The first allows the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second substantive

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change revises the authority note for the groundwater quality regulations to state that the groundwater regulations were adopted pursuant to the Environmental Protection Act.

- 16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the Adopted Amendments begins on the next page.

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 615

EXISTING ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

SUBPART A: GENERAL

Section	Purpose
615.101	Definitions
615.102	Incorporations by Reference
615.103	Prohibitions
615.104	General Exceptions
615.105	

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section	
615.201	Applicability
615.202	Compliance Period
615.203	Compliance with Groundwater Standards
615.204	Groundwater Monitoring System
615.205	Groundwater Monitoring Program
615.206	Contaminants to be Monitored
615.207	Sampling Frequency
615.208	Reporting
615.209	Non-Compliance Response Program
615.210	Alternate Non-Compliance Response Program
615.211	Corrective Action Program

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section	
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AUTHORITY: Implementing and authorized by Sections 5, 14.4, 21, 22, and 27 of the Environmental Protection Act [415 ILCS 5/5, 14.4, 21, 22, and 27].

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1538, effective January 10, 1992; amended in R92-20 at 17 Ill. Reg. 1871, effective January 28, 1993; amended in R96-18 at 21 Ill. Reg. ~~65-03~~, effective _____.

SUBPART A: GENERAL

Section 615.102 Definitions

Except as stated in this Section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in the Act or the Illinois Groundwater Protection Act [415 ILCS 55] ~~(((11-Rev-Stat-1989-CH-111-1727-PARS-7451-et-seq-7))~~.

"Above-ground storage tank" means a storage tank that is not an underground storage tank.

"Act" means the Environmental Protection Act [415 ILCS 5] ~~(((11-Rev-Stat-1989-CH-111-1727-PARS-1861-et-seq-7))~~.

"Agency" means the Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

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"Certification" means a statement of professional opinion based upon knowledge and belief.

"Community Water Supply" means a public supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents. (Section 3.05 of the Act)

"Compliance point" means any point in groundwater designated at 35 Ill. Adm. Code 620.Subpart B as a Class I through III groundwater at which a contaminant released from the unit could pass underneath the unit boundary. There may be more than one compliance point for a particular unit.

"Commencement of construction" means that *all necessary federal, state, and local approvals have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion.* (Section 3.58 of the Act)

"Container" means any portable device (including, but not limited to, 55 gallon drums) in which material is stored, treated, disposed of or otherwise handled. The term "container" does not include a vehicle used to transport material.

"Containerized" means being in a container.

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source. (Section 3.06 of the Act)

"Contamination" or "contaminate", when used in connection with groundwater, means water pollution of such groundwater. (Section 3.63 of the Act)

"Date of first applicability" means the effective date of this Part for any unit located within a minimum setback zone, except that:

If a unit is first incorporated into any setback zone by an ordinance or regulation that establishes a maximum setback zone, the date of first applicability is the effective date of this Part or the effective date of the ordinance or regulation that establishes the maximum setback zone, whichever is later; or

If a unit is located in a part of a regulated recharge area that was not previously part of a setback zone, the date of first applicability is the effective date of the regulation that establishes the regulated recharge area.

"De-icing agent" means a chemical used for de-icing, including but not limited to sodium chloride and calcium chloride. Sand, ashes, or

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other abrasive materials that do not alter the freezing point of water are not de-icing agents.

"Detection" means the identification of a contaminant in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL", which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the true value is greater than zero pursuant to 56 Fed. Reg. 3526-3397 incorporated by reference at Section 615.103; or

"Method Quantitation Limit" or "MQL", which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", incorporated by reference at Section 615.103.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of any material onto or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spillage, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters. (Section 3.08 of the Act)

"Existing unit" means a unit that was in operation or for which there is commencement of construction on or before the date of first applicability, except that a unit is not an existing unit if the unit:

Expands laterally beyond the currently permitted boundary, or the unit boundary if the unit is not permitted, in existence after the date of first applicability; or

Is part of a facility that undergoes major reconstruction after the date of first applicability; or

Reopens at any time after having submitted a certification of closure to the Agency.

"Facility" means all contiguous land and structures, other

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apparatenances and improvements on the land used for the treating, storing, handling, or disposal of any material which causes that unit to be regulated under this Part. A facility may consist of one or more units.

"Freeboard" means the vertical distance between the top of a tank or dike and the surface of the material contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846), incorporated by reference at Section 615-103.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Groundwater standards" means the water quality standards for Groundwater adopted by the Board under Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55] ~~§§11-Rev.---Stat.---1989---ch. 11-1/27--par.---7458~~ and found at 35 Ill. Adm. Code 620.

"Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant 35 Ill. Adm. Code 721. (Section 3.15 of the Act)

"Incompatible material" means a material which may:

Cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

When commingled with another material, produces heat or pressure, fire, explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection

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well.

"Landscape waste" means all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees. (Section 3.20 of the Act)

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface.

"Land treatment" means the application of waste onto or incorporation of waste into the soil surface. For the purposes of this Part a land application unit is a land treatment unit.

"Leachate" means any liquid, including suspended components in the liquid, that has percolated through or drained from a material.

"Licensed water well contractor" means a person licensed under the Water Well and Pump Installation Contractor's License Act [225 ILCS 345] ~~§§11-Rev.---Stat.---1989---ch. 111--par.---7101-et-seq.7~~.

"Liner" means a continuous layer of natural or manmade materials beneath or on the side of a surface impoundment, landfill, landfill cell, waste pile, or storage pile which restricts the downward or lateral escape of waste, waste constituents, leachate or stored materials.

"Major reconstruction" means commencement of construction at a facility where the fixed capital cost of the new components constructed within a 2-year period exceeds 50% of the fixed capital cost of a comparable entirely new facility. New components do not include any new components necessary for compliance with this Part.

"New unit" means a unit that is not an existing unit.

"Non-community water supply" means a public water supply that is not a community water supply. (Section 3.05 of the Act)

"Non-special waste" means a waste that is not a special waste.

"Off-site" means not on-site.

"On-site", "on the site", or "on the same site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties

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owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Operator" means the person responsible for the operation of a site, facility or unit.

"Owner" means the person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. (Section 3.71 of the Act)

"Pile" means any noncontainerized accumulation of solid, non-flowing material that is used for treatment, storage or disposal.

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3.65 of the Act)

"Practical Quantitation Limit" or "PQL" means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, incorporated by reference in Section 615.103.

"Public water supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply". (Section 3.28 of the Act)

"Reactive material" means a material which meets one or more of the following criteria:

It is normally unstable and readily undergoes violent change without detonating;

It reacts violently with water;

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It forms potentially explosive mixtures with water;

When mixed with water, it generates toxic gases, vapors, or fumes in a quantity sufficient to present a danger to human health or the environment;

It is capable of detonation or explosive reaction if it is subject to a strong initiating source, or if heated under confinement;

It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

It is a forbidden explosive as defined in 49 CFR 173 incorporated by reference in Section 615.103, or a Class A explosive as defined in 49 CFR 173.53 or a Class B explosive as defined in 49 CFR 173.88.

"Registered land surveyor" means a person registered under the Illinois Professional Land Surveyors Act of 1989 [225 ILCS 330] ~~§§11-Rev-Stat-1989; ch-1117-pars.-3201-et-seq-7.~~

"Registered professional engineer" means a person registered under the ~~§§11-Rev-Stat-1989; ch-1117-pars.-3201-et-seq-7.~~ Professional Engineering Practice Act of 1989 [225 ILCS 325]

"Regulated recharge area" means a compact geographic area, as determined by the board pursuant to Section 17.4 of the Act, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Section 3.67 of the Act)

"Road oil" means slow-curing asphaltic oils which show no separation on standing and which are used for road construction, maintenance or repair.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Run-on" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Secondary containment structure" means any structure or basin intended to contain spills and prevent runoff or leaching from piles, containers, or tanks and related piping.

"Setback zone" means a geographic area, designated pursuant to this Act, containing a potable water supply well or a potential source or potential route having a continuous boundary, and within which certain

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prohibitions or regulations are applicable in order to protect groundwaters. (Section 3.61 of the Act)

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder. (Section 3.43 of the Act)

"Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects. (Section 3.44 of the Act)

"Special waste" means any industrial process waste, pollution control waste or hazardous waste, except as determined pursuant to Section 22.9 of the Act and 35 Ill. Adm. Code 808. (Section 3.45 of the Act)

"Storage" means the holding or containment of a material, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such material.

"Surface impoundment" means a natural topographical depression, man-made excavation, or diked area that is designed to hold liquid wastes or wastes containing free liquids.

"Surface water" means all waters that are open to the atmosphere.

"Tank" means a stationary device, designed to contain an accumulation of material which is constructed of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support. The term

"tank" does not include areas used to accumulate materials prior to pumping to tanks or containers (i.e., sump pits) or associated piping. The term "tank" does not include vehicles used to transport material.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any material so as to neutralize such material, or so as to recover energy or material resources from the material or so as to render such material nonhazardous or less hazardous, safer to transport, store or dispose of, or amenable for recovery, amenable for storage or reduced in volume.

"Underground storage tank" means a storage tank as defined at 35 Ill. Adm. Code 731.101(f).

"Unit" means any device, mechanism, equipment, or area (exclusive of

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land utilized only for agricultural production). (Section 3.62 of the Act)

"Unit boundary" means a line at the land's surface circumscribing the area on which, above which or below which waste, pesticides, fertilizers, road oils or de-icing agents will be placed during the active life of the facility. The space taken up by any liner, dike or other barrier designed to contain waste, pesticides, fertilizers, road oils or de-icing agents falls within the unit boundary.

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include:

industrial discharges with NPDES permits issued pursuant to 35 Ill. Adm. Code 309;

source, spent nuclear, or by-product materials as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014);

any solid or dissolved material from any material subject to 62 Ill. Adm. Code 1700 through 1850. (Section 3.53 of the Act)

"Waste pile" means a pile consisting of waste that has a total volume greater than 10 cubic yards or within which the waste remains for more than 90 days.

"Waters" means all accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partly within, flow through, or border upon this state. (Section 3.56 of the Act)

"Well" means a bored, drilled or driven shaft, or dug hole, the depth of which is greater than the largest surface dimension. (Section 3.57 of the Act)

(Source: Amended at 21 Ill. Reg. 6503, effective MAY 14 1994)

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section 615.204 Groundwater Monitoring System

- a) Except as provided otherwise in subsection (b) of this Section, the groundwater monitoring system must consist of a sufficient number of

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wells, installed at appropriate locations and depths to yield groundwater samples, that:

- 1) Represent the quality of background water that has not been affected by contamination from the facility or unit; and
- 2) Represent the quality of groundwater at the compliance point or points.

- b) If a potable water well or other water well can be used as a monitoring well pursuant to this subsection, no additional monitoring wells are required under this Section. A potable water well or other water well may be used as a monitoring well if:

- 1) For a potable water well other than a community water supply well, a construction report has been filed with the Illinois Department of Public Health for such well, or such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 ILCS 30] (Ill. Rev. Stat. 1989, ch. 111-1/27-pars. 116-111-et-seq.) and 35 Ill. Adm. Code 920;
- 2) For a water well other than a potable water well (e.g., a livestock watering well or an irrigation well), the owner or operator of the unit seeking to use the well as a monitoring well certifies to the Agency that a construction report has been filed with the Illinois Department of Public Health or the Illinois Department of Mines and Minerals for such well, or that such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 ILCS 30] (Ill. Rev. Stat. 1989, ch. 111-1/27-pars. 116-111-et-seq.) and 35 Ill. Adm. Code 920; and
- 3) The unit contains solely non-special waste if the unit is a surface impoundment.

- c) If a facility contains more than one unit, separate groundwater monitoring systems are not required for each unit, provided that provisions for sampling the groundwater will enable detection and measurement of contaminants that have entered the groundwater from all units.

- d) All monitoring wells must meet the following requirements:

- 1) Construction must be done in a manner that will enable the collection of groundwater samples;
- 2) Casings and screens must be made from durable material that is resistant to expected chemical or physical degradation and that does not interfere with the quality of groundwater samples being collected; and
- 3) The annular space opposite the screened section of the well (i.e., the space between the bore hole and well screen) must be filled with gravel or sand if necessary to collect groundwater samples. The annular space above and below the well screen must be sealed to prevent migration of water from overlying adjacent formations and the surface to the sampled depth.

(Source: Amended at 21 Ill. Reg. 6513, effective

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May 16, 1997

Section 615.462 Required Closure

A waste pile is deemed to be a landfill and thereby subject to the closure requirements of Subpart D B unless the operator can demonstrate to the Agency that the wastes are not accumulated over time for disposal. At the minimum, such demonstration shall include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposed elsewhere.

(Source: Amended at 21 Ill. Reg. 6503, effective May 16, 1997)

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- 1) Heading of the Part: Groundwater Quality
- 2) Code Citation: 35 Ill. Adm. Code 620
- 3) Section Numbers:

<u>Adopted Action:</u>
620.110 Amended
620.230 Amended
620.260 Amended
620.301 Amended
620.420 Amended
620.450 Amended
620.505 Amended
- 4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, 22.1, 22.17, and 28.1, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].
- 5) Effective Date of Rule: May 8, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Rule contain incorporations by reference? No
- 8) Date filed in Board's Principal Office: Amended petition filed on September 4, 1996, and second amended petition filed on October 16, 1996.
- 9) Notice of Proposal Published in Illinois Register: December 20, 1996, 20 Ill. Reg. 15879
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this Rule replace an emergency Rule currently in effect? No
- 14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rule: The changes to Part 620 are part of a comprehensive rulemaking which includes Parts 601 through 620. A complete description of that rulemaking is included in the Board's May 1, 1997 opinion and order in Docket R96-18, which is available at the address below. Specifically, the rulemaking completes many non-substantive "housekeeping" items, including updating of citations, and amends definitions to reflect current concerns in protection of public water supplies. It also contains two substantive matters. The first allows the

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Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second substantive change revises the authority note for the groundwater quality regulations to state that the groundwater regulations were adopted pursuant to the Environmental Protection Act.

- 16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the Adopted Rule begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 620

GROUNDWATER QUALITY

SUBPART A: GENERAL

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620.105 Purpose
620.110 Definitions
620.115 Prohibition
620.125 Incorporations by Reference
620.130 Exemption from General Use Standards and Public and Food Processing Water Supply Standards
620.135 Exclusion for Underground Water in Certain Man-Made Conduits

SUBPART B: GROUNDWATER CLASSIFICATION

Section
620.201 Groundwater Designations
620.210 Class I: Potable Resource Groundwater
620.220 Class II: General Resource Groundwater
620.230 Class III: Special Resource Groundwater
620.240 Class IV: Other Groundwater
620.250 Groundwater Management Zone
620.260 Reclassification of Groundwater by Adjusted Standard

SUBPART C: NONDEGRADATION PROVISIONS FOR APPROPRIATE GROUNDWATERS

Section
620.301 General Prohibition Against Use Impairment of Resource Groundwater
620.302 Applicability of Preventive Notification and Preventive Response Activities
620.305 Preventive Notification Procedures
620.310 Preventive Response Activities

SUBPART D: GROUNDWATER QUALITY STANDARDS

Section
620.401 Applicability
620.405 General Prohibitions Against Violations of Groundwater Quality Standards
620.410 Groundwater Quality Standards for Class I: Potable Resource Groundwater
620.420 Groundwater Quality Standards for Class II: General Resource Groundwater

620.430 Groundwater Quality Standards for Class III: Special Resource Groundwater
620.440 Groundwater Quality Standards for Class IV: Other Groundwater
620.450 Alternative Groundwater Quality Standards

SUBPART E: GROUNDWATER MONITORING AND ANALYTICAL PROCEDURES

Section
620.505 Compliance Determination
620.510 Monitoring and Analytical Requirements

SUBPART F: HEALTH ADVISORIES

Section
620.601 Purpose of a Health Advisory
620.605 Issuance of a Health Advisory
620.610 Publishing Health Advisories
620.615 Additional Health Advice for Mixtures of Similar-Acting Substances
APPENDIX A Procedures for Determining Human Threshold Toxicant Advisory Concentration for Class I: Potable Resource Groundwater
APPENDIX B Procedures for Determining Hazard Indices for Class I: Potable Resource Groundwater for Mixtures of Similar-Acting Substances
APPENDIX C Guidelines for Determining When Dose Addition of Similar-Acting Substances in Class I: Potable Resource Groundwaters is Appropriate
APPENDIX D Confirmation of an Adequate Corrective Action Pursuant to 35 Ill. Adm. Code 620.250(a)(2)

AUTHORITY: Implementing Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8] and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27].

SOURCE: Adopted in R89-14(B) at 15 Ill. Reg. 17614, effective November 25, 1991; amended in R89-14(C) at 16 Ill. Reg. 14667, effective September 11, 1992; amended at 18 Ill. Reg. 14084, effective August 24, 1994; amended in R96-18 at 21 Ill. Reg. 6518, effective 04/01/97.

SUBPART A: GENERAL

Section 620.110 Definitions

The definitions of the Environmental Protection Act [415 ILCS 5] (~~415-1-1-Rev-Stat--1989-CH-III-1/27-PART-1001-ET-SEQ~~) and the Groundwater Protection Act [415 ILCS 55] (~~415-Rev-Stat--1989-CH-III-1/27-PART-7451-ET-SEQ~~) apply to this Part. The following definitions also apply to this Part.

"Act" means the Environmental Protection Act [415 ILCS 5] (~~415-Rev-Stat--1989-CH-III-1/27-PART-1001-ET-SEQ~~).

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"Agency" means the Illinois Environmental Protection Agency.

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients. (Section 3(b) of the ICOPA)

"BETX" means the sum of concentrations of benzene, ethylbenzene, toluene, and xylenes.

"Board" means the Illinois Pollution Control Board.

"Carcinogen" means a chemical, or complex mixture of closely related chemicals, which has been listed or classified in the Integrated Risk Information System or as specified in a final rule adopted by the USEPA in accordance with USEPA Guidelines for Carcinogenic Risk Assessment, incorporated by reference at Section 620.1125, to be a group A, B[1], or B[2] carcinogen.

"Community Water Supply" means a public supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents. (Section 3.05 of the Act)

"Contaminant" means any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source. (Section 3.06 of the Act)

"Corrective action process" means those procedures and practices that may be imposed by a regulatory agency when a determination has been made that contamination of groundwater has taken place, and are necessary to address a potential or existing violation of the standards set forth in Subpart D.

"Cumulative impact area" means the area, including the coal mine area permitted under the Surface Coal Mining Land Conservation and Reclamation Act [25 ILCS 720] (411--Rev--Stat--1989--ch--96-t/27-pars--990-t/et-seq--as-amended) and 62 Ill. Adm. Code 1700 through 1850, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface water and groundwater systems.

"Detection" means the identification of a contaminant in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL" which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the true value is greater than zero, pursuant to 56 Fed. Reg. 3526-3597, incorporated by reference at Section 620.125; or

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"Method Quantitation Limit" or "MQL" which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" incorporated by reference at Section 620.125.

"Department" means the Illinois Department of Energy and Natural Resources.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

"IGPA" means the Illinois Groundwater Protection Act- [415 ILCS 55].
{Ill.-Rev.-Stat.-1909-ch--111-1/27-pars--7451-et-seq-7

"LOAEL" or "Lowest observable adverse effect level" means the lowest tested concentration of a chemical or substance which produces a statistically significant increase in frequency or severity of non-overt adverse effects between the exposed population and its appropriate control. LOAEL may be determined for a human population (LOAEL-H) or an animal population (LOAEL-A).

"NOAEL" or "No observable adverse effect level" means the highest tested concentration of a chemical or substance which does not produce a statistically significant increase in frequency or severity of non-overt adverse effects between the exposed population and its appropriate control. NOAEL may be determined for a human population (NOAEL-H) or an animal population (NOAEL-A).

"Non-Community Water Supply" means a Public Water Supply that is not a community water supply. (Section 3.05)

"Off-site" means not on-site.

"On-site" means on the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access are not "on-site."

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access is also considered on-site property.

"Operator" means the person responsible for the operation of a site, facility or unit.

"Owner" means the person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3.65 of the Act)

"Potential Primary Source" means any unit at a facility or site not currently subject to a removal or remedial action which:

is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or

is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or

is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or

stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances. (Section 3.59 of the Act)

"Potential Route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. (Section 3.58 of the Act)

"Potential Secondary Source" means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, which:

is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or

stores or accumulates at any time more than 25,000 but not more

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than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substance; or

stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or

stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or

stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or

is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act [225 ILCS 225].
~~§§§§-Rev-Stat-1989-97-ch-111-1/2-par-16-301-et-seq-3-60-of-the-Act)~~

"Practical Quantitation Limit" or "PQL" means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with "Test Methods For Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication No. SW-846, incorporated by reference at Section 620.125.

"Previously mined area" means land disturbed or affected by coal mining operations prior to February 1, 1983.

(Board Note: February 1, 1983, is the effective date of the Illinois permanent program regulations implementing the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720 et seq.] ~~§§§§-Rev-Stat-1989-96-1/2-par-7991-1-et-seq-7-as-amended~~) as codified in 62 Ill. Adm. Code 1700 through 1850.)

"Property class" means the class assigned by a tax assessor to real property for purposes of real estate taxes.

(Board Note: The property class {rural property, residential vacant land, residential with dwelling, commercial residence, commercial business, commercial office, or industrial} is identified on the property record card maintained by the tax assessor in accordance with the Illinois Real Property Appraisal Manual [February 1987], published by the Illinois Department of Revenue, Property Tax Administration Bureau.)

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"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "Community Water Supply" or a "Non-Community Water Supply". (Section 3.28 of the Act)

"Regulated entity" means a facility or unit regulated for groundwater protection by any state or federal agency.

"Regulatory agency" means the Illinois Environmental Protection Agency, Department of Public Health, Department of Agriculture, Department of Mines and Minerals, and the Office of State Fire Marshal.

"Regulated Recharge Area" means a compact geographic area, as determined by the Board pursuant to Section 17.4 of the Act, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Section 3.67 of the Act)

"Resource Groundwater" means groundwater that is presently being, or in the future is capable of being, put to beneficial use by reason of being of suitable quality. (Section 3.66 of the Act)

"Setback Zone" means a geographic area, designated pursuant to this Act, containing a potable water supply well or a potential source or potential route having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters. (Section 3.61 of the Act)

"Site" means any location, place, tract of land and facilities, including but not limited to, buildings and improvements used for the purposes subject to regulation or control by the Act or regulations thereunder. (Section 3.43 of the Act)

"Spring" means a natural surface discharge of an aquifer from rock or soil.

"Threshold dose" means the lowest dose of a chemical at which a specified measurable effect is observed and below which it is not observed.

"Treatment" means the technology, treatment techniques, or other procedures for compliance with 35 Ill. Adm. Code: Subtitle F.

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"Unit" means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production). (Section 3.62 of the Act)

"USEPA" or "U.S.-EPA" means the United States Environmental Protection Agency.

(Source: Amended at 21 Ill. Reg. ~~6526~~ effective ~~1/1/97~~)

SUBPART B: GROUNDWATER CLASSIFICATION

Section 620.230 Class III: Special Resource Groundwater

Except as provided in Section 620.250, Special Resource Groundwater is:

- a) Groundwater that is determined by the Board, pursuant to the procedures set forth in Section 620.260, to be:
 - 1) Demonstrably unique (e.g., irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified in Subpart D; or
 - 2) Vital for a particularly sensitive ecological system.
- b) Groundwater that contributes to a dedicated nature preserve that is listed by the Agency as set forth below:
 - 1) A written request to list a dedicated nature preserve under this subsection must contain, at a minimum, the following information:
 - A) A general description of the site and the surrounding land use;
 - B) A topographic map or other map of suitable scale denoting the location of the dedicated nature preserve;
 - C) A general description of the existing groundwater quality at and surrounding the dedicated nature preserve;
 - D) A general geologic profile of the dedicated nature preserve, based upon the most reasonably available information, including but not limited to geologic maps and subsurface groundwater flow directions; and
 - E) A description of the interrelationship between groundwater and the nature of the site.
 - 2) Upon confirmation by the Agency of the technical adequacy of a written request, the Agency shall publish the proposed listing of the dedicated nature preserve in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the public comment period, the Agency shall either publish a final listing of the dedicated nature preserve in the Environmental Register or provide a written response to the requestor specifying the reasons for not listing the dedicated nature preserve.
 - 3) At least once annually, the Agency shall publish in the

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Environmental Register a complete listing of all dedicated nature preserves listed under this subsection (b).

- 4) For purposes of this Section the term "dedicated nature preserve" means a nature preserve that is dedicated pursuant to the Illinois Natural Areas Preservation Act [525 ILCS 30] ~~(((Rev. Stat.:1989, ch. 105, pars. 701-et-seq.))~~

(Source: Amended at 21 Ill. Reg. 6518, effective July 1, 1991)

Section 620.260 Reclassification of Groundwater by Adjusted Standard

Any person may petition the Board to reclassify a groundwater in accordance with the procedures for adjusted standards specified in Section 28.1 of the Act and 35 Ill. Adm. Code 106.Subpart G. In any proceeding to reclassify specific groundwater by adjusted standard, in addition to the requirements of 35 Ill. Adm. Code 106.Subpart G, and Section 28.1(c) of the Act, the petition shall, at a minimum, contain information to allow the Board to determine:

- a) The specific groundwater for which reclassification is requested, including but not limited to geographical extent of any aquifers, depth of groundwater, and rate and direction of groundwater flow and that the specific groundwater exhibits the characteristics of the requested class as set forth in Section 620.210(b), 620.220(b), 620.230, or 620.240;
- b) Whether the proposed change or use restriction is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social benefits such as loss of jobs or closing of facilities, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards would be beneficial or necessary;
- c) Existing and anticipated uses of the specific groundwater;
- d) Existing and anticipated quality of the specific groundwater;
- e) Existing and anticipated contamination, if any, of the specific groundwater;
- f) Technical feasibility and economic reasonableness of eliminating or reducing contamination of the specific groundwater or of maintaining existing water quality;
- g) The anticipated time period over which contaminants will continue to affect the specific groundwater;
- h) Existing and anticipated impact on any potable water supplies due to contamination;
- i) Availability and cost of alternate water sources or of treatment for those users adversely affected;
- j) Negative or positive effect on property values; and
- k) For special resource groundwater, negative or positive effect on:
 - 1) The quality of surface waters; and
 - 2) Wetlands, natural areas, and the life contained therein,

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including endangered or threatened species of plant, fish or wildlife listed pursuant to the Endangered Species Act, 16 U.S.C. 1531 et seq., or the Illinois Endangered Species Protection Act ~~(((Rev. Stat.:1991, ch. 87, par. 331-et-seq.))~~ [415 ILCS 10].

(Source: Amended at 21 Ill. Reg. 5513, effective July 1, 1991)

SUBPART C: NONDEGRADATION PROVISIONS FOR APPROPRIATE GROUNDWATERS

Section 620.301 General Prohibition Against Use Impairment of Resource Groundwater

- a) No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that:

1) Treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or

2) An existing or potential use of such groundwater is precluded.

- b) Nothing in this Section shall prevent the establishment of a groundwater management zone pursuant to Section 620.250 or a cumulative impact area within a permitted site.

- c) Nothing in this Section shall limit underground injection pursuant to a permit issued by the Agency under the Act or issued by the Department of Mines and Minerals under the Illinois Oil and Gas Act [225 ILCS 725] ~~“An Act in relation to oil, gas, coal and other surface and underground resources and to repeal an Act—herein named—”~~ ~~(((Rev. Stat.:1989, ch. 96-1/27, pars. 5401-et-seq.))~~ ~~as amended~~.

- d) Nothing in this Section shall limit the Board from promulgating nondegradation provisions applicable to particular types of facilities or activities which impact upon groundwater, including but not limited to landfills regulated pursuant to 35 Ill. Adm. Code: Subtitle G.

(Source: Amended at 21 Ill. Reg. 5513, effective July 1, 1991)

SUBPART D: GROUNDWATER QUALITY STANDARDS

Section 620.420 Groundwater Quality Standards for Class II: General Resource Groundwater

- a) Inorganic Chemical Constituents
- 1) Except due to natural causes or as provided in Section 620.450 or subsection (a)(3) or (d) of this Section, concentrations of the following chemical constituents constituents must not be exceeded in Class II groundwater:

Constituent	Standard
	(mg/L)

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Antimony	0.024
Arsenic	0.2
Barium	2
Beryllium	0.5
Cadmium	0.05
Chromium	1
Cobalt	1
Cyanide	0.6
Fluoride	4.0
Lead	0.1
Mercury	0.01
Nitrate as N	100
Thallium	0.02

- 2) Except as provided in Section 620.450 or subsection (a)(3) or (d) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Boron	2.0
Chloride	200
Copper	0.65
Iron	5
Manganese	10
Nickel	2
Selenium	0.05
Total Dissolved Solids (TDS)	1,200
Sulfate	400
Zinc	10

- 3) The standard for any inorganic chemical constituent listed in subsection (a)(2) of this Section, for barium, or for pH does not apply to groundwater within fill material or within the upper 10 feet of parent material under such fill material on a site not within the rural property class for which:

A) Prior to the effective date of this Part, surficial characteristics have been altered by the placement of such fill material so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater monitoring of such parameters is available for review by the Agency.

B) On the effective date of this Part, surficial characteristics are in the process of being altered by the placement of such fill material, which proceeds in reasonably continuous manner to completion, so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater

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monitoring of such parameters is available for review by the Agency.

- 4) For purposes of subsection (a)(3) of this Section, the term "fill material" means clean earthen materials, slag, ash, clean demolition debris, or other similar materials.

b) Organic Chemical Constituents

- 1) Except due to natural causes or as provided in Section 620.450 or subsection (b)(2) or (d) of this Section, concentrations of the following organic chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Alachlor*	0.010
Aldicarb	0.015
Atrazine	0.015
Benzene*	0.025
Benzo(a)pyrene*	0.002
Carbofuran	0.2
Carbon Tetrachloride*	0.025
Chlordane*	0.01
Dalapon	2.0
Dichloromethane*	0.05
Dichloromethane	--0.05
Di(2-ethylhexyl)phthalate*	0.06
Dinoseb	0.07
Endothall	0.1
Endrin	0.01
Ethylene Dibromide*	0.0005
Heptachlor*	0.002
Heptachlor Epoxide*	0.001
Hexachlorocyclopentadiene	0.5
Lindane (Gamma-Hexachloro cyclohexane)	0.001
2,4-D	0.35
ortho-Dichlorobenzene	1.5
para-Dichlorobenzene	0.375
1,2-Dibromo-3-Chloropropane*	0.002
1,2-Dichloroethane*	0.025
1,1-Dichloroethylene	0.035
cis-1,2-Dichloroethylene	0.2
trans-1,2-Dichloroethylene	0.5
1,2-Dichloropropane*	0.025
Ethylbenzene	1.0
Methoxychlor	0.2
Monochlorobenzene	0.5
Pentachlorophenol*	0.005

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Phenols	0.1
Picloram	5.0
Polychlorinated Biphenyls (PCB's)(as decachloro- biphenyl)*	0.0025
Simazine	0.04
Styrene	0.5
2,4,5-TP	0.25
Tetrachloroethylene*	0.025
Toluene	2.5
Toxaphene*	0.015
1,1,1-Trichloroethane	1.0
1,2,4-Trichlorobenzene	0.7
1,1,2-Trichloroethane	0.05
Trichloroethylene*	0.025
Vinyl Chloride*	0.01
Xylenes	10

*Denotes a carcinogen.

2) The standards for pesticide chemical constituents listed in subsection (b)(1) of this Section do not apply to groundwater within 10 feet of the land surface, provided that the concentrations of such constituents result from the application of pesticides in a manner consistent with the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (7 U. S. C. 136 et seq.) and the Illinois Pesticide Act (415 ILCS 60).

c) Complex Organic Chemical Mixtures

Concentrations of the following organic chemical constituents of gasoline, diesel fuel, or heating fuel must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Benzene*	0.025
BTEX	13.525

*Denotes a carcinogen.

d) pH

Except due to natural causes, a pH range of 6.5 - 9.0 units must not be exceeded in Class II groundwater that is within 5 feet of the land surface.

(Source: Amended at 21 Ill. Reg. 5513, effective 1/1/87)

Section 620.450 Alternative Groundwater Quality Standards

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a) Groundwater Quality Restoration Standards

- 1) Any chemical constituent in groundwater within a groundwater management zone is subject to this Section.
- 2) Except as provided in subsection subsections (a)(3) or (a)(4) below, the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 apply to any chemical constituent constituent in groundwater within a groundwater management zone.
- 3) Prior to completion of a corrective action described in Section 620.250(a), the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 are not applicable to such released chemical constituent constituent, provided that the initiated action proceeds in a timely and appropriate manner.
- 4) After completion of a corrective action as described in Section 620.250(a), the standard for such released chemical constituent constituent is:

A) The standard as set forth in Section 620.410, 620.420, 620.430, or 620.440, if the concentration as determined by groundwater monitoring of such constituent constituent is less than or equal to the concentration for the appropriate class set forth in those Sections; or

B) The concentration as determined by groundwater monitoring, if such concentration exceeds the standard for the appropriate class set forth in Section 620.410, 620.420, 620.430, or 620.440 for such constituent, and:

- i) To the extent practicable, the exceedance has been minimized and beneficial use, as appropriate for the class of groundwater, has been returned; and
- ii) Any threat to public health or the environment has been minimized.

5) The Agency shall develop and maintain a listing of concentrations derived pursuant to subsection (a)(4)(B) above. This list shall be made available to the public and be updated periodically, but no less frequently than semi-annually. This listing shall be published in the Environmental Register.

b) Coal Reclamation Groundwater Quality Standards

1) Any inorganic chemical constituent or pH in groundwater, within an underground coal mine, or within the cumulative impact area of groundwater for which the hydrologic balance has been disturbed from a permitted coal mine area pursuant to the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720] Rev-Stat-1989-CH-96-1/2-PARS-7981-1-ET-SEQ-77-AS-AMENDED and 62 Ill. Adm. Code 1700 through 1850, is subject to this Section.

2) Prior to completion of reclamation at a coal mine, the standards as specified in Sections 620.410(a) and (d), 620.420(a) and (d) et, 620.430, and 620.440 are not applicable to inorganic constituents and pH.

3) After completion of reclamation at a coal mine, the standards as

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specified in Sections 620.410(a) and (d), 620.420(a), 620.430, and 620.440 are applicable to inorganic constituents and pH, except:

A) The concentration of total dissolved solids (TDS) must not exceed:

- i) The post-reclamation concentration or 3000 mg/L, whichever is less, for groundwater within the permitted area; or
- ii) The post-reclamation concentration of TDS must not exceed the post-reclamation concentration or 5000 mg/L, whichever is less, for groundwater in underground coal mines and in permitted areas reclaimed after surface coal mining if the Illinois Department of Mines and Minerals and the Agency have determined that no significant resource groundwater existed prior to mining (62 Ill. Adm. Code 1780.21 (f) and (g)); and

B) For chloride, iron, manganese and sulfate, the post-reclamation concentration within the permitted area must not be exceeded; and

C) For pH, the post-reclamation concentration within the permitted area must not be exceeded within Class I: Potable Resource Groundwater as specified in Section 620.210(a)(4).

4) A refuse disposal area (not contained within the area from which overburden has been removed) is subject to the inorganic chemical constituent and pH requirements of:

A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;

B) Section 620.440(c) for such area that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or

C) Subpart D of this Part for such area that is placed into operation on or after the effective date of this Part.

5) For a refuse disposal area (not contained within the area from which overburden has been removed) that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of subsection (b)(4)(C) of this Section and the following applies to the additional area:

A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such additional refuse disposal area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and

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B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.

6) A coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, is subject to the inorganic chemical constituent and pH requirements of:

A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such plant that was placed into operation after February 1, 1983 and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;

B) Section 620.440(c) for such plant that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or

C) Subpart D for such plant that is placed into operation on or after the effective date of this Part.

7) For a coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of subsection (b)(6)(C) of this Section and the following applies to the additional area:

A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such additional area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and

B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.

(Source: Amended at 21 Ill. Reg. 6540, effective 1/1/83)

SUBPART E: GROUNDWATER MONITORING AND ANALYTICAL PROCEDURES

Section 620.595 Compliance Determination

a) Compliance with standards at a site is to be determined as follows:

- 1) For a structure (e.g., buildings), at the closest practical distance beyond the outermost edge for the structure.
- 2) For groundwater that underlies a potential primary or secondary source, the outermost edge as specified in Section 620.240(e)(1).
- 3) For groundwater that underlies a coal mine refuse disposal area, a coal combustion waste disposal area, or an impoundment that contains sludge, slurry, or precipitated process material at a

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Environmental Protection Act.

- 16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board
P.O. Box 505
Dekalb, IL 60115
(815) 753-0947

The full text of the Adopted Amendment begins on the next page.

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 601
INTRODUCTION

Section
601.101 General Requirements
601.102 Applicability
601.103 Severability
601.104 Analytical Testing
601.105 Definitions

APPENDIX A References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/17 and 27).

SOURCE: Filed with Secretary of State January 1, 1978; amended at 2 Ill. Reg. 36, p. 72, effective August 29, 1978; amended at 3 Ill. Reg. 13, p. 236, effective March 30, 1979; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended at 6 Ill. Reg. 14344, effective November 3, 1982; amended in R84-12 at 14 Ill. Reg. 1379, effective January 8, 1990; amended in R89-5 at 16 Ill. Reg. 1585, effective January 10, 1992; amended in R96-18 at 21 Ill. Reg. ~~633~~ ⁶³³, effective ~~1-1-93~~ ¹⁻¹⁻⁹³.

Section 601.101 General Requirements

Owners and official custodians of a public water supply in the State of Illinois shall provide pursuant to the Environmental Protection Act [415 ILCS 5] ~~{iii-Rev-Stat-1989, ch-iii-17, pars-1001-et-seq-}~~ (Act), the Pollution Control Board (Board) Rules, and the Safe Drinking Water Act (42 U.S.C. 300f et seq.) continuous operation and maintenance of public water supply facilities so that the water shall be assuredly safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

(Source: Amended in at 21 Ill. Reg. ~~633~~ ⁶³³, effective ~~1-1-93~~ ¹⁻¹⁻⁹³.)

Section 601.105 Definitions

For purposes of this Chapter:

"Act" means the Environmental Protection Act, as amended, [415 ILCS 5] ~~{iii-Rev-Stat-1989, ch-iii-17, pars-1001-et-seq-}~~.

"Agency" means the Illinois Environmental Protection Agency.

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"Board" means the Illinois Pollution Control Board.

"Boil Order" means a notice to boil all drinking and culinary water for at least five minutes before use, issued by the proper authorities to the consumers of a public water supply affected, whenever the water being supplied may have become microbiologically bacteriologically contaminated.

"Certified Laboratory" means any laboratory approved by the Agency, the Illinois Department of Nuclear Safety or the Illinois Department of Public Health for the specific parameters to be examined, as set out in rules adopted pursuant to the Illinois Administrative Procedure Act, [5 ILCS 100] (~~Ill.-Rev.-Stat.-1989, ch.-127, pars.-1001-et-seq.-7.~~)

"Chemical Analysis" means analysis for any inorganic or organic substance, with the exception of radiological or microbiological analyses.

"Confined Geologic Formations" are geologic water bearing formations protected against the entrance of contamination by other geologic formations.

"Disinfectant" means any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone, added to water in any part of the treatment or distribution process, which is intended to kill or inactivate pathogenic microorganisms.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Halogen" means one of the chemical elements chlorine, bromine or iodine.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides

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emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, National Bureau of Standards (NBS) Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum Residence Time Concentration (MRTC)" means the concentration of total trihalomethanes found in a water sample taken at a point of maximum residence time in the public water supply distribution system.

"Maximum Total Trihalomethane Potential (MTP)" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after 7 days at a temperature of 25° C or above.

"Official Custodian" means any officer of an organization which is the owner or operator of a public water supply, and who has direct administrative responsibility for the supply.

"Persistent Contamination" exists when analysis for total coliform is positive in one or more samples of a routine sample set, and when three or more subsequent repeat check samples indicate the presence of contamination.

"Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point of Maximum Residence Time" means that part of the active portion of the distribution system remote from the treatment plant where the water has been in the distribution system for the longest period of time.

"Recurring Contamination" exists when analysis of total coliform is positive in one or more samples of a routine sample set, if this occurs four or more times in a twelve consecutive month period calendar-year.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

"~~Sell Re-sett~~ Water" means to deliver or provide potable water, obtained from a public water supply subject to these regulations, to the consumer, who is then individually or specifically billed for water service, or where any monetary assessment is levied or required and specifically used for water service. Water supply facilities owned or operated by political subdivisions, homeowners associations, and not-for-profit associations, as well as privately owned utilities

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regulated by the Illinois Commerce Commission, are considered to sell water whether or not a charge is specifically made for water.

"Service Connection" is the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Supply" means a public water supply.

"Surface Water" means all tributary streams and drainage basins, including natural lakes and artificial reservoirs, which may affect a specific water supply above the point of water supply intake.

"Surface Water Supply Source" means any surface water used as a water source for a public water supply.

"Total Trihalomethanes (TTHM)" means the sum of the concentration in milligrams per liter of the trihalomethane compounds trichloromethane (chloroform), dibromochloromethane, bromodichloromethane and tribromomethane (bromoform), rounded to two significant figures.

"Trihalomethane (THM)" means one of the family of organic compounds named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

"Water Main" means any pipe for the purpose of distributing potable water which serves or is accessible to more than one property, dwelling, or rental unit, and is exterior to buildings.

(Source: Amended at 21 Ill. Reg. 603.300, effective _____)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: New Activities in a Setback Zone or Regulated Recharge Area

2) Code Citation: 35 Ill. Adm. Code 616

3) Section Numbers: Adopted Action:
616.101 Amended
616.102 Amended
616.104 Amended
616.447 Amended

4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

5) Effective Date of Rule: May 8, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this Rule contain incorporations by reference? No

8) Date filed in Board's Principal Office: Amended petition filed on September 4, 1996, and second amended petition filed on October 16, 1996.

9) Notice of Proposal Published in Illinois Register: December 20, 1996, 20 Ill. Reg. 16132

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this Rule replace an emergency Rule currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rule: The changes to Part 616 are part of a comprehensive rulemaking which includes Parts 601 through 620. A complete description of that rulemaking is included in the Board's May 1, 1997 opinion and order in Docket R96-18, which is available at the address below. Specifically, the rulemaking completes many non-substantive "housekeeping" items, including updating of citations, and amends definitions to reflect current concerns in protection of public water supplies. It also contains two substantive matters. The first allows the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of

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the radium maximum concentration level (MCL). The second substantive change revises the authority note for the groundwater quality regulations to state that the groundwater regulations were adopted pursuant to the Environmental Protection Act.

- 16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the adopted amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 616

NEW ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

SUBPART A: GENERAL

Section	Purpose
616.101	Definitions
616.102	Exceptions to Prohibitions
616.104	General Exceptions
616.105	

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section	
616.201	Applicability
616.202	Compliance Period
616.203	Compliance With Groundwater Standards
616.204	Groundwater Monitoring System
616.205	Groundwater Monitoring Program
616.206	Reporting
616.207	Determining Background Values and Maximum Allowable Results ("MARS")
616.208	Continued Sampling
616.209	Preventive Notification and Preventive Response
616.210	Corrective Action Program
616.211	Alternative Corrective Action Demonstration

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

Section	
616.301	Applicability
616.302	Closure Performance Standard
616.303	Certification of Closure
616.304	Survey Plat
616.305	Post-Closure Notice for Waste Disposal Units
616.306	Certification of Completion of Post-Closure Care
616.307	Post-Closure Care Period

SUBPART D: ON-SITE LANDFILLS

Section	
616.401	Applicability
616.402	Prohibitions

SUBPART E: ON-SITE LAND TREATMENT UNITS

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Section
616.421 Applicability
616.422 Prohibitions
616.423 Groundwater Monitoring
616.424 Design and Operating Requirements
616.425 Closure and Post-Closure

SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

Section
616.441 Applicability
616.442 Prohibitions
616.443 Groundwater Monitoring
616.444 Design Requirements
616.445 Inspection Requirements
616.446 Operating Requirements
616.447 Closure and Post-Closure Care

SUBPART G: ON-SITE WASTE FILES

Section
616.461 Applicability
616.462 Prohibitions
616.463 Design and Operating Requirements
616.464 Closure

SUBPART H: UNDERGROUND STORAGE TANKS

Section
616.501 Applicability
616.502 Design and Operating Requirements

SUBPART I: PESTICIDE STORAGE AND HANDLING UNITS

Section
616.601 Applicability
616.602 Prohibitions
616.603 Groundwater Monitoring
616.604 Design and Operating Requirements
616.605 Closure and Post-Closure Care

SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS

Section
616.621 Applicability
616.622 Prohibitions
616.623 Groundwater Monitoring
616.624 Design and Operating Requirements

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616.625 Closure and Post-Closure Care

SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS

Section
616.701 Applicability
616.702 Prohibitions
616.703 Groundwater Monitoring
616.704 Design and Operating Requirements for Above-Ground Storage Tanks
616.705 Closure

SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS

Section
616.721 Applicability
616.722 Prohibitions
616.723 Groundwater Monitoring
616.724 Design and Operating Requirements for Indoor Storage Facilities
616.725 Closure

AUTHORITY: Implementing Sections 5, 14.4, 21, and 22, and authorized by Section 27, of the Environmental Protection Act [415 ILCS 5/5, 14.4, 21, 22, 27].

SOURCE: Adopted at R89-5 at 16 Ill. Reg. 1592, effective January 10, 1992; amended in R89-14(C) at 16 Ill. Reg. 14676, effective September 11, 1992; amended in R92-20 at 17 Ill. Reg. 1878, effective January 28, 1993; amended in R96-18 at 21 Ill. Reg. 6546, effective _____.

SUBPART A: GENERAL

Section 616.101 Purpose

This Part prescribes requirements and standards for the protection of groundwater for certain types of new facilities or units located wholly or partially within a setback zone regulated by the Act or within a regulated recharge area as delineated pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act) [415 ILCS 5] ~~that~~ Rev. 1989 ~~---ch-~~ ---par- ~~---et-seq-~~.

(Source: Amended at 21 Ill. Reg. 6546, effective _____)

Section 616.102 Definitions

Except as stated in this Section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the

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Illinois Groundwater Protection Act [415 ILCS 55] (11-1-88; Rev. 1-1-89; Ch. 11-1-89; Par. 7451 et seq.).

"New Potential Primary Source" means:

A potential primary source which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or

A potential primary source which expands laterally beyond the currently permitted boundary or, if the primary source is not permitted, the boundary in existence as of January 1, 1988; or

A potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility. (Section 3.59 of the Act)

"New Potential Route" means:

A potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or

A potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988. (Section 3.58 of the Act)

"New Potential Secondary Source" means:

A potential secondary source which is not in existence or for which construction has not commenced at its location as of July 1, 1988; or

A potential secondary source which expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or

A potential secondary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility.

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(Section 3.60 of the Act)

"Potential Primary Source" means any unit at a facility or site not currently subject to a removal or remedial action which:

Is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or

Is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or

Is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or

Stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances.

(Section 3.59 of the Act)

"Potential Route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. (Section 3.58 of the Act)

"Potential Secondary Source" means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, which:

Is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or

Stores or accumulates at any time more than 25,000 but not more than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substances; or

Stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or

Stores or accumulates pesticides, fertilizers, or road oils for

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purposes of commercial application or for distribution to retail sales outlets; or

Stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or

Is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act [225 ILCS 225] ~~†††††~~

~~Rev. Stat. 1909, ch. 111-1/2, par. 116-301-et-seq.†.~~
(Section 3.60 of the Act)

(Source: Amended at 21 Ill. Reg. 6543, effective)

Section 616.104 Exceptions to Prohibitions

a) The owner of a new potential primary source or a potential secondary source may secure a waiver from the prohibitions specified in Section 616.402(a), 616.422(a), 616.442, 616.462(a), 616.602, 616.622, 616.702 or 616.722(a) against construction or operation within the setback zone for a potable water supply well other than a community water supply. A written request for a waiver shall be made to the owner of the water well and the Agency. Such request shall identify the new or proposed potential source, shall generally describe the possible effect of such potential source upon the water well and any applicable technology-based control which will be utilized to minimize the potential for contamination, and shall state whether, and under what conditions, the requestor will provide an alternative potable water supply. Waiver may be granted by the owner of the water well no less than 90 days after receipt unless prior to such time the Agency notifies the well owner that it does not concur with the request.

(Section 14.2(b) of the Act)

b) The Agency shall not concur with any such request which fails to accurately describe reasonably foreseeable effects of the potential source or potential route upon the water well or any applicable technology-based controls. Such notification by the Agency shall be in writing, and shall include a statement of reasons for the nonconcurrence. Waiver of the minimum setback zone shall extinguish the water well owner's rights under Section 6b of the Illinois Water Well Construction Code but shall not preclude enforcement of any law regarding water pollution. If the owner of the water well has not granted a waiver within 120 days after receipt of the request or the Agency has notified the owner that it does not concur with the request, the owner of a potential source or potential route may file a petition for an exception with the Board and the Agency pursuant to subsection (b) of this Section. (Section 14.2(b) of the Act)

c) No waiver under this Section is required where the potable water

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supply well is part of a private water system as defined in the Illinois Groundwater Protection Act, and the owner of such well will also be the owner of a new potential secondary source or a potential route. In such instances, a prohibition of 75 feet shall apply and the owner shall notify the Agency of the intended action so that the Agency may provide information regarding the potential hazards associated with location of a potential secondary source or potential route in close proximity to a potable water supply well. (Section 14.2(b) of the Act)

d) The Board may grant an exception from the setback requirements of this Section and Section 14.3 to the owner of a new potential primary source other than landfilling or land treating, or a new potential secondary source. The owner seeking an exception with respect to a community water supply well shall file a petition with the Board and the Agency. The owner seeking an exception with respect to a potable water supply well shall file a petition with the Board and the Agency, and set forth therein the circumstances under which a waiver has been sought but not obtained pursuant to subsection (a) of this Section. A petition shall be accompanied by proof that the owner of each potable water supply well for which setback requirements would be affected by the requested exception has been notified and been provided with a copy of the petition. A petition shall set forth such facts as may be required to support an exception, including a general description of the potential impacts of such potential source or potential route upon groundwaters and the affected water well, and an explanation of the applicable technology-based controls which will be utilized to minimize the potential for contamination of the potable water supply well. (Section 14.2(c) of the Act)

e) The Board shall grant an exception, whenever it is found upon presentation of adequate proof, that compliance with the setback requirements of this Section would pose an arbitrary and unreasonable hardship upon the petitioner, that the petitioner will utilize the best available technology controls economically achievable to minimize the likelihood of contamination of the potable water supply well, that the maximum feasible alternative setback will be utilized, and that the location of such potential source or potential route will not constitute a significant hazard to the potable water supply well. (Section 14.2(c) of the Act)

f) A decision made by the Board pursuant to this subsection shall constitute a final determination. (Section 14.2(c) of the Act)

g) The granting of an exception by the Board shall not extinguish the water well owner's rights under Section 6b of the Illinois Water Well Construction Code in instances where the owner has elected not to provide a waiver pursuant to subsection (a) of this Section. (Section 14.2(c) ~~14.2(a)~~ of the Act)

(Source: Amended at 21 Ill. Reg. 6543, effective)

POLLUTION CONTROL BOARD

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SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

Section Subpart 616.447 Closure and Post-Closure Care

- a) If closure is to be by removal, the owner or operator shall remove all waste, all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils and structures and equipment contaminated with waste and leachate; and, if disposed of in the State of Illinois, dispose of them at a disposal site permitted by the Agency under the Act.
- b) If closure is not to be by removal, the owner or operator shall comply with the requirements of Subpart C and shall:
- 1) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues.
 - 2) Stabilize remaining wastes to a bearing capacity sufficient to support final cover.
 - 3) Cover the surface impoundment unit with a final cover designed and constructed to:
 - A) Provide long-term minimization of the migration of liquids through the closed impoundment unit;
 - B) Function with minimum maintenance;
 - C) Promote drainage and minimize erosion or abrasion of the final cover;
 - D) Accommodate settling and subsidence so that the cover's integrity is maintained; and
 - E) Have a permeability less than or equal to the permeability of any bottom liner system.
- c) If some waste residues or contaminated materials are left in place at final closure, the owner or operator shall comply with the requirements of Subpart C and shall for a period of 5 years after closure:
- 1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion or other events;
 - 2) Maintain and monitor the groundwater monitoring system; and
 - 3) Prevent run-on and runoff from eroding or otherwise damaging the final cover.

(Source: Amended at 21 Ill. Reg. 6543, effective _____.)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Operation and Record Keeping

2) Code Citation: 35 Ill. Adm. Code 607

3) Section Numbers: Adopted Action:
607.103 Amended
607.104 Amended

4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

5) Effective Date of Rule: May 8, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this Rule contain incorporations by reference? No

8) Date filed in Board's Principal Office: Amended petition filed on September 4, 1996, and second amended petition filed on October 16, 1996.

9) Notice of Proposal Published in Illinois Register: December 20, 1996, 20 Ill. Reg. 15937

10) Has JCER issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Board and JCER been made as indicated in the agreement letter issued by JCER? Yes

13) Will this Rule replace an emergency Rule currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rule: The changes to Part 607 are part of a comprehensive rulemaking which includes Parts 601 through 620. A complete description of that rulemaking is included in the Board's May 1, 1997 opinion and order in Docket R96-18, which is available at the address below. Specifically, the rulemaking completes many non-substantive "housekeeping" items, including updating of citations, and amends definitions to reflect current concerns in protection of public water supplies. It also contains two substantive matters. The first allows the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second substantive change revises the authority note for the groundwater quality regulations to state that the groundwater regulations were adopted pursuant to the

POLLUTION CONTROL BOARD

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Environmental Protection Act.

- 16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board
P.O. Box 505
DeKalb, IL 60115
(815) 753-0947

The full text of the Adopted Amendments begins on the next page.

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 607

OPERATION AND RECORD KEEPING

Section

- 607.101 Protection During Repair Work (Repealed)
607.102 Disinfection Following Repair or Reconstruction (Repealed)
607.103 Emergency Operation
607.104 Cross Connections
607.105 Laboratory Testing Equipment (Repealed)
607.106 Record Maintenance (Repealed)
APPENDIX A References to Former Rules (Repealed)

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 27].

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended in R88-26 at 14 Ill. Reg. 16512, effective September 20, 1990; amended in R95-17 at 20 Ill. Reg. 14423, effective October 22, 1996; amended in R96-18 at 21 Ill. Reg. 6054, effective 10/22/96.

Section 607.103 Emergency Operation

- a) Whenever contamination is determined to persist in a public water supply, as demonstrated by microbiological ~~bacteriological~~ analysis results, the owners or official custodians of the supply shall notify all consumers to boil for five minutes all water used for drinking or culinary purposes. This boil order shall remain in effect until microbiological ~~bacteriological~~ samples demonstrate that the water is safe for domestic use, or until appropriate corrective action approved by the Agency is taken. If the owner or official custodian of the supply fails to take such action on his own or at the recommendation of the Agency, the Agency may issue a boil order directly to the consumers affected.
- b) Any emergency which results in water pressures falling below twenty pounds per square inch on any portion of the distribution system shall be reason for immediate issuance of a boil order by the owner or official custodian of the supply to those consumers affected unless:
- 1) There is a historical record of adequate chlorine residual and approved turbidity levels in the general area affected covering at least twelve monthly readings;
 - 2) Samples for bacteriological examination are taken in the affected area immediately and approximately twelve hours later; and-
 - 3) Tests for residual chlorine and turbidity taken at not more than

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hourly intervals in the affected area for several hours do not vary significantly from the historical record. If significant decrease in chlorine residual or increase in turbidity occurs, a boil order shall be issued.

- c) Whenever the safety of a supply is endangered for any reason, including but not limited to spillage of hazardous substances, the Agency shall be notified immediately by the owner, official custodian or his authorized representative, and the supply officials shall take appropriate action to protect the supply. The owner, official custodian or his authorized representative shall notify all consumers of appropriate action to protect themselves against any waterborne hazards. If the owner or official custodian of the supply fails to take such action on his own or at the recommendation of the Agency, the Agency shall notify directly the consumers affected.

(Source: Amended at 21 Ill. Reg. 6553, effective _____)

Section 607.104 Cross Connections

- a) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency, except as provided for in subsection (d) of this Section.
- b) There shall be no arrangement or connection by which an unsafe substance may enter a supply.
- c) Control of all cross-connections to a supply is the responsibility of the owner or official custodian of the supply. If a privately owned water supply source meets the applicable criteria, it may be connected to a water supply upon approval by the owner or official custodian and by the Agency. Where such connections are permitted, it is the responsibility of the public water supply officials to assure submission from such privately owned water supply source or sources samples and operating reports, as required by 35 Ill. Adm. Code 611 as applicable to the cross-connected source.
- d) The Agency may adopt specific conditions for control of unsafe cross-connections, which shall be complied with by the supplies of this State, as applicable. These conditions shall be adopted and/or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.
- e) Each community water supply exempted pursuant to 35 Ill. Adm. Code 603.104 603-i03 or Section 17(b) of the Act 604-402 shall provide an active program approved by the Agency to continually educate and inform water supply consumers regarding prevention of the entry or contaminants into the distribution system. Conditions under which the Agency will approve this active program shall be adopted or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.

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(Source: Amended at 21 Ill. Reg. 6553, effective _____)

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- 1) Heading of the Part: Ownership and Responsible Personnel
- 2) Code Citation: 35 Ill. Adm. Code 603
- 3) Section Numbers: Adopted Action:
 603.102 Amended
 603.103 Amended
 603.104 Amended
- 4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

5) Effective Date of Rule: May 8, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this Rule contain incorporations by reference? No

8) Date filed in Board's Principal Office: Amended petition filed on September 4, 1996, and second amended petition filed on October 16, 1996.

9) Notice of Proposal Published in Illinois Register: December 20, 1996, 20 Ill. Reg. 15943

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this Rule replace an emergency Rule currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rule: The changes to Part 603 are part of a comprehensive rulemaking which includes Parts 601 through 620. A complete description of that rulemaking is included in the Board's May 1, 1997 opinion and order in Docket R96-18, which is available at the address below. Specifically, the rulemaking completes many non-substantive "housekeeping" items, including updating of citations, and amends definitions to reflect current concerns in protection of public water supplies. It also contains two substantive matters. The first allows the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second substantive change revises the authority note for the groundwater quality regulations

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

to state that the groundwater regulations were adopted pursuant to the Environmental Protection Act.

16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozduk-Lawless
 Illinois Pollution Control Board
 P.O. Box 505
 DeKalb, IL 60115
 (815) 753-0947

The full text of the adopted amendment begins on the next page.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 603

OWNERSHIP AND RESPONSIBLE PERSONNEL

Section	
603.101	Ownership
603.102	Responsible Personnel
603.103	Certified Operator
603.104	Registered Person in Responsible Charge
603.105	Notification of Change of Ownership or Responsible Personnel
APPENDIX A	References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 27].

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended at R96-18 at 21 Ill. Reg. 6558, effective _____.

Section 603.102 Responsible Personnel

Each public water supply shall have designated an individual in responsible charge of the operation of that supply properly qualified and registered pursuant to Public Water Supply Operations Act "An Act to regulate the operating of a public water supply" [415 ILCS 45] (Ill. Rev. Stat. 1981, ch. 111-1/2, par. 301 et seq.) thereinafter "Water-Supply-Operator-Certification Law", with all provisions of the Public Water Supply Operations Act "Water-Supply-Operator-Certification Law" complied with.

(Source: Amended at 21 Ill. Reg. 6558, effective _____)

Section 603.103 Certified Operator

- a) Each public water supply, unless exempted under Section 603.104, shall have a certified operator, qualified and registered in accordance with the Public Water Supply Operations Act "Water-Supply-Operator-Certification Law", designated in responsible charge of for the supply's operation.
- b) The owner or official custodian and the certified operator designated in responsible charge shall file a signed statement identifying the certified operator in responsible charge on forms provided by the Agency.

- 1) Both the treatment and distribution facilities of each supply must have responsible personnel indicated.

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- 2) One properly certified operator may supervise both the treatment and distribution facilities of the supply.
- c) Completion of the above forms shall indicate acceptance of the duties and responsibilities for the proper operation and maintenance of the public water supply facilities by both owner or official custodian and certified operator.

(Source: Amended at 21 Ill. Reg. 6558, effective _____)

Section 603.104 Registered Person in Responsible Charge

- a) A public water supply may seek an exemption from the requirement of a certified operator in responsible charge.
- b) Each public water supply seeking such exemption shall so request in writing to the Agency.
- c) Each public water supply exempted from the certified operator requirement by the Agency, pursuant to the Public Water Supply Operations Act "Water-Supply-Operator-Certification Law", shall have either a certified operator or person registered in accordance with the Public Water Supply Operations Act "Water-Supply-Operator-Certification Law" designated in responsible charge of for the supply's operation.
- d) Each public water supply exempted by the Agency and retaining a registered person in responsible charge shall file with the Agency a signed statement identifying the registered person in responsible charge on forms provided by the Agency. Such statement shall also be signed by the registered person in responsible charge.

- 1) Both the treatment and distribution facilities of each supply must have responsible personnel indicated.
- 2) One properly registered person in responsible charge may supervise both the treatment and distribution facilities of the supply.

- e) Completion of the above forms shall indicate acceptance of the duties and responsibilities for the proper operation and maintenance of the public water supply facilities by both owner or official custodian and registered person in responsible charge.

(Source: Amended at 21 Ill. Reg. 6558, effective _____)

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1) Heading of the Part: Permits2) Code Citation: 35 Ill. Adm. Code 6023) Section Numbers: Adopted Action:

602.105 Amended

602.106 Amended

602.108 Amended

602.110 Amended

602.114 Amended

602.115 Amended

602.120 Amended

4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].5) Effective Date of Rule: May 8, 19976) Does this rulemaking contain an automatic repeal date? No7) Does this Rule contain incorporations by reference? No8) Date filed in Board's Principal Office: Amended petition filed on September 4, 1996, and second amended petition filed on October 16, 1996.9) Notice of Proposal Published in Illinois Register: December 20, 1996, 20 Ill. Reg. 1594810) Has JCAR issued a Statement of Objections to these rules? No11) Differences between proposal and final version: None12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Yes13) Will this Rule replace an emergency Rule currently in effect? No14) Are there any other amendments pending on this Part? No15) Summary and Purpose of Rule: The changes to Part 602 are part of a comprehensive rulemaking which includes Parts 601 through 620. A complete description of that rulemaking is included in the Board's May 1, 1997 opinion and order in Docket R96-18, which is available at the address below. Specifically, the rulemaking completes many non-substantive "housekeeping" items, including updating of citations, and amends definitions to reflect current concerns in protection of public water supplies. It also contains two substantive matters. The first allows the

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Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second substantive change revises the authority note for the groundwater quality regulations to state that the groundwater regulations were adopted pursuant to the Environmental Protection Act.

16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board

P.O. Box 505

DeKalb, IL 60115

(815) 753-094

Full text of the Adopted Amendments begins on the next page.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE F: PUBLIC WATER SUPPLIES
 CHAPTER I: POLLUTION CONTROL BOARD

PART 602
 PERMITS

Section	
602.101	Construction Permit
602.102	Operating Permit
602.103	Algicide Permit
602.104	Emergency Permit
602.105	Standards for Issuance
602.106	Restricted Status
602.107	Signatory Requirement for Permit Applications
602.108	Construction Permit Applications
602.109	Operating Permit Applications
602.110	Algicide Permit Applications
602.111	Application Forms and Additional Information
602.112	Filing and Final Action by Agency on Permit Applications
602.113	Duration
602.114	Conditions
602.115	Design, Operation and Maintenance Criteria
602.116	Requirement for As-Built Plans
602.117	Existence of Permit No Defense
602.118	Appeals from Conditions
602.119	Revocations
602.120	Limitations

APPENDIX A References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 27].

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended at 8 Ill. Reg. 2157, effective February 7, 1984; emergency amendment at 9 Ill. Reg. 13371, effective August 16, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 7337, effective April 22, 1986; amended in R96-18 at 21 Ill. Reg. ~~6562~~, effective ~~May 15, 1987~~.

Section 602.105 Standards for Issuance

- a) The Agency shall not grant any construction or operating permit required by this Part, except as otherwise provided in subsection (d) of this Section, unless the applicant submits adequate proof that the public water supply will be constructed, modified or operated so as not to cause a violation of the Environmental Protection Act [415 ILCS 5] (~~Ill. Rev. Stat. 1987, ch. 111-1/2, par. 1001-et-seq.~~) (Act).

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- b) The Agency shall not grant any construction or operating permit required by this Part unless the applicant submits adequate proof that the public water supply facility conforms to the design criteria promulgated by the Agency under Section 39(a) of the Act or Section 602.115 or is based on such other criteria which the applicant proves will produce consistently satisfactory results.
- c) The Agency shall not grant any construction permit required by this Part unless the applicant submits proof that any plan documents required by this Section and Section 602.108 have been prepared by a person qualified under the Illinois Architecture Practice Act [225 ILCS 305] (~~Ill. Rev. Stat. 1987, ch. 111, par. 1201-et-seq.~~), the Illinois Professional Engineering Practice Act [225 ILCS 325] (~~Ill. Rev. Stat. 1987, ch. 111, par. 5101-et-seq.~~), the Illinois Structural Engineering Act [225 ILCS 340] (~~Ill. Rev. Stat. 1987, ch. 111, par. 6501-et-seq.~~), or any required combination thereof.
- d) Until the effective date of either a National Primary Drinking Water Regulation for radium-226, radium-228, or gross alpha particle activity that replaces the National Interim Primary Drinking Water Regulations for these contaminants, adopted by USEPA on July 9, 1976, or the formal withdrawal of the proposed National Primary Drinking Water Regulations for these contaminants, as proposed by USEPA on July 18, 1991 (56 Fed. Reg. 33050), the Agency shall not deny for the following reasons any construction or operating permit required by this Part:
- 1) the radium-226 level is less than or equal to 20 pCi/L;
 - 2) the radium-228 level is less than or equal to 20 pCi/L; or
 - 3) the gross alpha particle activity level minus the radium-226 level is less than or equal to 15 pCi/L.

(Source: Amended at 21 Ill. Reg. ~~6562~~, effective ~~May 15, 1987~~.)

Section 602.106 Restricted Status

- a) Restricted status shall be defined as the Agency determination, pursuant to Section 39(a) of the Act and Section 602.105, that a public water supply facility may no longer be issued a construction permit without causing a violation of the Act or this Chapter.
- b) The Agency shall publish and make available to the public, at intervals of not more than six months, a comprehensive and up-to-date list of supplies subject to restrictive status and the reasons why.
- c) The Agency shall notify the owners or official custodians of supplies when the supply is initially placed on restricted status by the Agency.
- d) Until the effective date of either a National Primary Drinking Water Regulation for radium-226, radium-228, or gross alpha particle activity that replaces the National Interim Primary Drinking Water Regulations for these contaminants, adopted by USEPA on July 9, 1976,

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or the formal withdrawal of the proposed National Primary Drinking Water Regulations for these contaminants, as proposed by USEPA on July 18, 1991 (56 Fed. Reg. 33050), the Agency shall not place public water supplies on restricted status when:

- 1) the radium-226 level is less than or equal to 20 pCi/L;
- 2) the radium-228 level is less than or equal to 20 pCi/L; or
- 3) the gross alpha particle activity level minus the radium-226 level is less than or equal to 15 pCi/L.

(Source: Amended at 21 Ill. Reg. 65 32, effective 65 32)

Section 602.108 Construction Permit Applications

All applications for any construction permit required under this Chapter shall contain, where appropriate, the following information and documents:

- a) A summary of the design basis;
- b) Operation requirements;
- c) General Layout;
- d) Detailed Plans;
- e) Specifications;
- f) A professional seal to satisfy Section 602.105(c)(b) requirements; and
- g) Any other information required by the Agency for proper consideration of the permit.

(Source: Amended at 21 Ill. Reg. 65 32, effective 65 32)

Section 602.110 Algalcide Permit Applications

a) All applications for algalcide permits shall contain:

- 1) the name and certificate number of the certified operator supervising the application of the algalcide;
- 2) a statement describing the extent of the algae problem, history of any past algae problems, and algalcide treatments, and a description of any fish kills which have resulted from treatments in the past; and
- 3) adequate information to support exceeding the limits as stated in 35 Ill. Adm. Code 302: Water Quality Standards.

b) After any algalcide permit is issued, and before the permit expires by its stated terms, if there is any major change either in the operation of the public water supply, or in algae growth, which affects the use of the algalcide as outlined in the permit, the public water supply shall submit an application for modification of its permit. This application shall contain all of the information required by this subsection (b) and subsection (a) above.

c) Any algalcide permit issued under this Section shall exempt the

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permittee from obtaining an aquatic pesticide permit as provided in 35 Ill. Adm. Code 652.601.

(Source: Amended at 21 Ill. Reg. 65 32, effective 65 32)

Section 602.114 Conditions

In addition to specific conditions authorized under this Part, the Agency may impose such conditions in a permit as may be necessary to accomplish the purposes of the Act and as are not inconsistent with regulations promulgated by the Illinois Pollution Control Board (Board).

(Source: Amended at 21 Ill. Reg. 65 32, effective 65 32)

Section 602.115 Design, Operation, and Maintenance Criteria

a) The Agency may adopt criteria, published in the form of Technical Policy Statements, for the design, operation, and maintenance of public water supply facilities as necessary to insure safe, adequate, and clean water. These criteria shall be revised from time to time to reflect current engineering judgement and advances in the state of the art.

b) Before adopting new criteria or making substantive changes to any Technical Policy Statements, the Agency shall comply with the provisions of the Administrative Procedure Act [5 ILCS 100] (###-Rev-Stat--1981, ch--1277, pars--1001-et-seq.).

(Source: Amended at 21 Ill. Reg. 65 32, effective 65 32)

Section 602.120 Limitations

Any permit issued under this Part shall not be considered to be valid unless and until all applicable permits from State agencies, including but not limited to those listed below, have been applied for:

AGENCY

PERMIT DESCRIPTION

Illinois Commerce Commission

Certificate of Convenience and Necessity

Dept.-of-Mines-and-Minerals

Well-Drilling

Div.-of-Gas-and-Gas

Change to Existing Waterways

Dept. of Natural Resources

Office of Water Resources

Dept.-of-Transportation

Division-of-Water-Resource

POLLUTION CONTROL BOARD

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Management

(Source: Amended at 21 Ill. Reg. 6568-7 effective _____)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Regulated Recharge Area

2) Code Citation: 35 Ill. Adm. Code 617

3) Section Numbers: Adopted Action:
617.101 Amended
617.102 Amended

4) Statutory Authority: Implementing Sections 5, 21, 21.1, 22, 22.17, and 28.1, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

5) Effective Date of Rule: May 8, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this Rule contain incorporations by reference? No

8) Date filed in Board's Principal Office: Amended petition filed on September 4, 1996, and second amended petition filed on October 16, 1996.

9) Notice of Proposal Published in Illinois Register: December 20, 1996, 20 Ill. Reg. 15956

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this Rule replace an emergency Rule currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rule: The changes to Part 617 are part of a comprehensive rulemaking which includes Parts 601 through 620. A complete description of that rulemaking is included in the Board's May 1, 1997 opinion and order in Docket #96-18, which is available at the address below. Specifically, the rulemaking completes many non-substantive "housekeeping" items, including updating of citations, and amends definitions to reflect current concerns in protection of public water supplies. It also contains two substantive matters. The first allows the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second substantive change revises the authority note for the groundwater quality regulations to state that the groundwater regulations were adopted pursuant to the

POLLUTION CONTROL BOARD

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Environmental Protection Act.

- 16) Information and questions regarding this adopted rule shall be directed to:

Audrey Lozuk-Lawless
Illinois Pollution Control Board
P.O. Box 505
Dekalb, IL 60115
(815) 753-0947

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 617

REGULATED RECHARGE AREAS

SUBPART A: GENERAL

Section
617.101 Purpose
617.102 Definitions

AUTHORITY: Implementing Sections 17.4, and authorized by Section and 27 of the Environmental Protection Act [415 ILCS 5/17.4 and 27].

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1639, effective January 10, 1992; amended in R96-18 at 21 Ill. Reg. 6566, effective

SUBPART A: GENERAL

Section 617.101 Purpose

This Part sets out regulated recharge areas as delineated pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act) 7 [415 ILCS 5] 411 Rev.-Stat.-1989-ch-111-1/27-pars-1001-et-seq.

(Source: Amended at 21 Ill. Reg. 6566, effective

Section 617.102 Definitions

Unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55] 411 Rev.-Stat.-1989-ch-111-1/27-pars-7451-et-seq-).

(Source: Amended at 21 Ill. Reg. 6566, effective

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

- 1) The Heading of the Part: Countdown
- 2) Code Citation: 11 Ill. Adm. Code 317
- 3) Section Number: Adopted Action:
317.10 New Section
317.20 New Section
317.30 New Section
317.40 New Section
317.50 New Section
317.60 New Section
317.70 New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: May 19, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: May 16, 1997
- 9) Notice of Proposal Published in Illinois Register: 21 Ill. Reg. 2929, March 7, 1997

- 10) Has JCAR issued a Statement of Objections to this rule? No

- 11) Differences between proposal and final version: In Section 317.10(b), "rules" was deleted; "prominently displayed" was replaced with "described in detail" and the last sentence was added. The first notice text in Section 317.40 was replaced with text included in this notice. Subsection 317.70(b)(4) was deleted.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes

- 13) Will these amendments replace emergency amendments currently in effect?
No

- 14) Are there any other proposed amendments pending in this Part? No

- 15) Summary and purpose of rules: These rules establish a new wager for which the bettor chooses the fourth, third, second and first place finishers in four consecutive races. This wager is similar to a Superfecta spread over four different races. Issues such as scratches, dead heats, pool and mandatory distribution and cancellation of races are detailed.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

- 16) Information and questions regarding these adopted amendments shall be directed to:

Gina DiCaro
Illinois Racing Board
Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
(312) 814-5070

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER 1: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 11/
COUNTDOWN

Section	General
317.10	Pool Calculations
317.20	Dead Heats
317.40	Scratches
317.50	Cancellation
317.60	Carryover Cap
317.70	Mandatory Distribution

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (230 ILCS 5/9(b)).

SOURCE: Adopted at 21 Ill. Reg. 6572, effective

Section 117.10 General

- The Countdown wager consists of four consecutive designated contests. The Countdown wager requires the selection of the fourth place finisher in the first designated contest; the third place finisher in the second designated contest; the second place finisher in the third designated contest; and the first place finisher in the fourth designated contest. The Countdown wager shall be calculated in an entirely separate pool.
- The Countdown wager shall be described in detail in the official program on each day the wager is offered. The scratch provisions contained in Section 317.40 shall be prominently displayed in the official program on each day the wager is offered.
- Each designated contest of the Countdown wager shall be conspicuously identified in the official program.
- Countdown wagers shall not be sold in denominations of less than \$1.
- The organization licensee may re-name this wager, but shall notify the State Director of Mutuels of the name to be used.

Section 117.20 Pool Calculations:

The organization licensee may select one of the following methods for conducting its Countdown pool. As used in this Part, "Major pool" is defined as 75% of the daily net pool; and "Minor pool" is defined as 25% of the daily

net pool. Any deviation from the Major/Minor pool percentage division must be approved by the State Director of Mutuels.

- Method 1, Countdown with Carryover: The net Countdown pool and carryover, if any, shall be distributed as a single price pool to those who selected the correct winning betting interest in each of the four designated contests as established in Section 317.10 of this Part, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the greatest number of winning betting interests in the Countdown contests; the remainder shall be added to the carryover.
- Method 2, Countdown with Minor Pool and Carryover: The major share of the net Countdown pool and the carryover, if any, shall be distributed to those who selected the winning betting interest in each of the four designated contests as established in Section 317.10 of this Part, based upon the official order of finish. The minor share of the net Countdown pool shall be distributed to those who selected the second greatest number of winning betting interests in the Countdown contests, based upon the official order of finish. If there are no wagers selecting the winning betting interest in each of the four designated Countdown contests, the minor share of the net Countdown pool shall be distributed as a single price pool to those who selected the greatest number of winning betting interests in the Countdown contests; the major share shall be added to the carryover.
- Method 3, Countdown with No Minor Pool and No Carryover: The net Countdown pool shall be distributed as a single price pool to those who selected the greatest number of winning betting interests in the Countdown contests, based upon the official order of finish. If there are no winning wagers on any of the Countdown contests, the pool is refunded.
- Method 4, Countdown with Major Pool and No Carryover: The major share of the net Countdown pool shall be distributed to those who selected the greatest number of winning betting interests in the Countdown contests, based upon the official order of finish. The minor share of the net Countdown pool shall be distributed to those who selected the second greatest number of winning betting interests in the Countdown contests, based upon the official order of finish. If there are no wagers selecting the second greatest number of winning betting interests in the Countdown contests, the minor share of the net Countdown pool shall be combined with the major share for distribution as a single price pool to those who selected the greatest number of winning betting interests in the Countdown contests. If the greatest number of winning betting interests is one, the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.
- Method 5, Countdown with Minor Pool and No Carryover: The major share of net Countdown pool shall be distributed to those who selected the winning betting interests in each of the four designated Countdown

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contests, based upon the official order of finish. The minor share of the net Countdown pool shall be distributed to those who selected the second greatest number of winning betting interests in the Countdown contests, based upon the official order of finish. If there are no wagers selecting the winning betting interest in each of the designated Countdown contests, the entire net Countdown pool shall be distributed as a single price pool to those who selected the greatest number winning betting interests in the Countdown contests. If there are no wagers selecting the second greatest number of winning betting interests in the Countdown contests, the minor share of the net Countdown pool shall be combined with the major share for distribution as a single price pool to those who selected the winning betting interests in each of the four designated Countdown contests. If there are no winning wagers on any of the Countdown contests, the pool is refunded.

Section 317.30 Dead Heats

- a) In the event there is a dead heat involving any of the first through fourth place finishers in a Countdown contest, the Countdown pool shall be distributed as a single price pool.
- b) In the event there is a dead heat in any of the Countdown contests, the following shall apply:

- 1) In the first designated Countdown contest, all betting interests involved in a dead heat for third or fourth place shall be considered winners. If there is a dead heat for third and fourth place, only those betting interests involved in the dead heat for third place shall be considered winners.
- 2) In the second designated Countdown contest, all betting interests involved in a dead heat for second or third place shall be considered winners. If there is a dead heat for second and third, only those betting interests involved in the dead heat for second place shall be considered winners.
- 3) In the third designated Countdown contest, all betting interests involved in a dead heat for first or second place shall be considered winners. If there is a dead heat for first and second place, only those betting interests involved in the dead heat for first place shall be considered winners.
- 4) In the fourth designated Countdown contest, all betting interests involved in a dead heat for first place shall be considered winners.

Section 317.40 Scratches

In the event a betting interest is scratched from any Countdown contest, the contestant with the greatest amount wagered in the win pool with the lowest program number shall be substituted for the scratched betting interest.

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Section 317.50 Cancellation

The Countdown pool shall be canceled and all Countdown wagers for the individual performance shall be refunded if:

- a) the field of contestants in any of the designated Countdown contests is reduced by scratches to fewer than five contestants.
- b) any of the remaining Countdown contests are canceled or declared no contest by the stewards after the first designated race has been run.

Section 317.60 Carryover Cap

The Countdown carryover, if any, may be capped at a designated level approved by the State Director of Mutuels so that if, at the close of any performance, the amount in the Countdown carryover equals or exceeds the designated cap, the Countdown carryover will be frozen until it is won or distributed pursuant to Section 317.70 of this Part. After the Countdown carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Countdown carryover, shall be distributed to those whose selection correctly designates the greatest number of winning betting interests, as defined in Section 317.10 of this Part, in the Countdown contests for the performance.

Section 317.70 Mandatory Distribution

- a) A written request for permission to distribute the Countdown carryover on a specific performance may be submitted to the State Director of Mutuels. The request shall contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- b) Should the Countdown carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the winning betting interest in each of the four designated Countdown contests, the entire pool shall be distributed as a single price pool to:
 - 1) those whose selection correctly designates the winning betting interest in any three of the four Countdown contests, but if there are no such wagers, then
 - 2) those whose selection correctly designates the winning betting interest in any two of the four Countdown contests, but if there are no such wagers, then
 - 3) those whose selection correctly designates the winning betting interests in one of the four Countdown contests.
- c) The Countdown carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
 - 1) Upon written approval from the State Director of Mutuels as provided for in subsection (a) of this Section.
 - 2) On the closing performance of the meet, split meet or successive or intervening race meeting at the same race track.
- d) If, for any reason, the Countdown carryover must be held over to the

ILLINOIS RACING BOARD

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corresponding Countdown of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the State Director of Mutuels. The Countdown carryover plus accrued interest shall then be added to the net Countdown pool of the following meet on a date and performance designated by the State Director of Mutuels.

- e) With written approval of the Board, the organization licensee may contribute to the Countdown carryover a sum of money up to any designated cap.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Match Rival
- 2) Code Citation: 11 Ill. Adm. Code 315
- 3) Section Number: Adopted Action:
315.10 New Section
315.20 New Section
315.30 New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rule: May 19, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency's Principal Office: May 16, 1997
- 9) Notice of Proposal Published in Illinois Register: 21 Ill. Reg. 2936, March 7, 1997
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between proposal and final version: In Section 315.10(a), line 1, "or more" was added after "two" and "horses" was changed to "betting interests". In Section 315.10(e), the last sentence was removed.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect?
No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rules: These rules establish a new wager which matches two betting interests in a race for the purpose of wagering. This wager does not require the bettor to choose contestants to finish "in the money" only to finish before the other match rival contestant. Issues such as pool distribution, choosing match contestants, and cancellation of pools are detailed.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Gina DiCaro
Illinois Racing Board

ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
312/814-5070

ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

TITLE 11: ALCOHOL, HORSE RACING AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 315
MATCH RIVAL

Section
315.10 General
315.20 Pool Distribution
315.30 Pool Cancellation

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. 6579, effective MAY 14 1997.

Section 315.10 General

- a) The match rival wager requires the selection of the winning contestant in a competition between two or more equally matched betting interests or based on the sportsmanship and/or skill of the jockeys/drivers and/or trainers in a designated contest or series of contests regardless of the official placing of the other betting interests in that contest or series of contests. The match rival wager shall be calculated in an entirely separate pool.
- b) Match rival wagers shall not be sold in denominations of less than \$2.
- c) The match rival rules shall be prominently displayed in the official program each day the match rival wager is offered.
- d) The organization licensee may re-name this wager, but shall notify the State Director of Mutuels of the name that will be used.
- e) The Racing Secretary, with the advise and consent of the stewards, shall determine the contestants for each match rival contest. The matching of contestants for the match rival shall be limited to horse versus horse, jockey versus jockey, driver versus driver and/or trainer versus trainer.
- f) The contestants chosen for the match rival wager shall be conspicuously identified in the official program.
- g) The organization licensee shall deduct the appropriate take-out and taxes as established in the Act. Match rival wagers consisting of a single contest shall be considered a single wager. Match rival wagers consisting of two contests shall be considered a feature wager. Match rival wagers consisting of three or more contests shall be considered a multiple wager.

The full text of the adopted amendments begins on the next page:

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Section 315.20 Pool Distribution

The net match rival pool shall be distributed to winning wagers based upon the official order of finish as a single price pool to those whose selection arrives at the finish line first in a single contest or contains the most winners in a series of contests.

- a) In the event both contestants fail to finish in a single contest, the entire pool shall be refunded for that wager.
- b) In a series of contests of a match rival wager, at least two contests must be completed or the entire wager shall be canceled and the entire pool refunded.

Section 315.30 Pool Cancellation

- a) In the event there is a dead heat in a single event contest, the entire pool shall be refunded for that wager. In the event there is a dead heat in one or more races in a series of contests, all contestants shall be considered winners.
- b) In the event any contestant is scratched or declared a non-starter by the stewards in any match rival race, the entire wager shall be canceled and the entire pool refunded.
- c) In the event any match rival race is canceled or declared no contest by the Stewards, the entire wager shall be canceled and the entire pool refunded.

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1) Heading of the Part: Show Quinella

2) Code Citation: 11 Ill. Adm. Code 316

3) Section Number: Adopted Action:

316.10 New Section

316.20 New Section

316.30 New Section

316.40 New Section

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective Date of Rule: May 19, 1997

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No

8) Date filed in Agency's Principal Office: May 16, 1997

9) Notice of Proposal Published in Illinois Register: 21 Ill. Reg. 2940, March 7, 1997

10) Has JCAR issued a Statement of Objections to this rule? No

11) Differences between proposal and final version: In Section, 316.30(c), last line, "as well as" was changed to "and". In Section 316.40(c), "less" was changed to "fewer".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect?
No

14) Are there any other proposed amendments pending in this Part? No

15) Summary and purpose of rules: These rules establish a new wager which adds a twist to the standard Quinella. The bettor chooses two betting interests and receives a pay-off if those contestants finish in any combination of first, second and third. Issues such as pool distribution, scratches and dead heats are detailed.

16) Information and questions regarding these adopted amendments shall be directed to:

Gina DiCaro

ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

Illinois Racing Board
Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
312/814-5070

The full text of the adopted amendments begins on the next page:

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TITLE 11: ALCOHOL, HORSE RACING AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 316
SHOW QUINELLA

Section	General
316.10	General
316.20	Pool Distribution
316.30	Dead Heat
316.40	Scratches

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. **6583**, effective
MAY 14 1997.

Section 316.10 General

- a) The Show Quinella requires the selection of two of the first three place finishers, irrespective of order, for a single contest. The Show Quinella wager shall be calculated in an entirely separate pool.
- b) The Show Quinella rules shall be prominently displayed in the official program each day the wager is offered.
- c) Show Quinella wagers shall not be sold in denominations of less than \$1, unless otherwise approved by the Board pursuant to 11 Ill. Adm. Code 300.40(a).
- d) The organization licensee may re-name this wager, but shall notify the State Director of Mutuels of the name to be used.

Section 316.20 Pool Distribution

The organization licensee shall elect one of the following methods for distribution of the Show Quinella pool:

- a) Method 1: Single price with no carryover: The net Show Quinella pool shall be distributed as a single price to those whose combinations finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then the entire pool shall be refunded on Show Quinella wagers for that contest.
- b) Method 2: Single price with carryover: The net Show Quinella pool shall be distributed as a single price pool to those whose combination finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then the net pool shall be carried

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forward, added to any existing carryover and added to the next Show Quinella pool.

c) Method 3: Profit split with no carryover: The net Show Quinella pool shall be distributed as a profit split to those whose combination finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then the entire pool shall be refunded on Show Quinella wagers for that contest.

d) Method 4: Profit split with carryover: The net Show Quinella pool shall be distributed as a profit split to those whose combination finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then the net pool shall be carried forward, added to any existing carryover and added to the next Show Quinella pool.

e) If contestants of a coupled entry or mutuel field finish within the first three finishers, the next separate betting interest shall be used to comprise the first three place finishers to determine the winning combinations for this wager.

Section 316.30 Dead Heat

a) In the event there is a dead heat for first place involving:

1) two or three separate betting interests, the net pool shall be distributed as if no dead heat occurred.

2) four or more separate betting interests, the net pool shall be distributed between all possible winning combinations of the first and second, first and third, and second and third place finishers.

b) In the event there is a dead heat for second place involving:

1) two separate betting interests, the net pool shall be distributed as if no dead heat occurred.

2) three or more separate betting interests, the net pool shall be distributed between all possible winning combinations of the first and second, first and third, and second and third place finishers.

c) In the event there is a dead heat for third place involving two or more separate betting interests, the net pool shall be distributed between all possible winning combinations of the first and second and third, and first and second place finishers.

Section 316.40 Scratches

a) In the event any contestant, which is not part of an entry or mutuel field, is scratched, all wagers including the scratched betting interest shall be refunded.

b) Scratches involving an entry or mutuel field shall not be refunded unless all contestants of the entry or mutuel field are scratched.

c) In the event scratches reduce the number of betting interests in any Show Quinella contest to fewer than five, the entire pool shall be refunded.

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NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers
1030.16
1030.18 Adopted Action
Amendment
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Section 6-104(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-104(b)].
- 5) Effective Date of Amendments: May 19, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 19, 1997
- 9) Notice of Proposal Published in Illinois Register: 21 Ill. Reg. 1581 (February 7, 1997)
- 10) Has JCAR Issued a Statement of Objections to this Rule? No

11) Differences between proposal and final version: As a result of discussions among the Joint Committee on Administrative Rules, the Epilepsy Foundation of Greater Chicago and the Department of Driver Services, "self-admission" has been more clearly defined and duly incorporated into the appropriate areas of the text of these amendments. Also, all stylistic and typographical changes suggested by the Joint Committee on Administrative Rules were included.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the Agreement Letter issued by JCAR? Yes

13) Will this rule replace any Emergency Rule(s) currently in effect? No

14) Are there any other amendments pending on this Part? Yes

<u>Section Number</u>	<u>Adopted Action</u>	<u>Illinois Register Citation</u>
1030.70	Amendment	21 Ill. Reg. 4414 (April 11, 1997)
1030.75	Amendment	21 Ill. Reg. 4414 (April 11, 1997)

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- 15) Summary and Purpose of Rulemaking: This proposed rulemaking includes language amendments due to the passage of Public Act 89-584.
- 16) Information and answers to questions regarding this Adopted Rule should be directed to:

Mark A. Novak
Assistant Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, IL 62723
217/782-5356

The full text of the Adopted Rule begins on the next page.

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1030

ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.20	Classification of Drivers-References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening with Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts/Road Test
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement For Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit
1030.95	Diplomatic and Consular Licenses
1030.96	Restricted Commercial Driver's License
1030.97	Invalidation of a Driver's License or Permit
1030.98	School Bus Commercial Driver's License
1030.100	Anatomical Gift Donor
1030.110	Emergency Medical Information Card
1030.115	Change-of-Address
1030.120	Issuance of a Probationary License
1030.130	Grounds for Cancellation of a Probationary License
APPENDIX A	Questions Asked of a Driver's License Applicant
APPENDIX B	Acceptable Identification Documents

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AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. ~~6588~~ ⁶⁵⁸⁸, effective _____.

Section 1030.16 Physical and Mental Evaluation

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a) For purpose of this Section the following definitions shall apply:

- 1) "Adjudication of Disability" - an order by a court of competent jurisdiction declaring a person, because of mental deterioration or physical incapacity, is not fully able to manage his person or estate pursuant to Sections 11a-2 and 11a-3 of the Probate Act of 1975 [75 ILCS 5/11a-2 and 5/11a-3].
- 2) "Cancellation" - the annulment or termination by formal action of the Secretary of a person's driver's license because the licensee is no longer entitled to such license in accordance with Section 1-110 of the Illinois Vehicle Code and 6-201 of the Illinois Drivers Licensing Law of the Illinois Vehicle Code [625 ILCS 5/1-110 and 5/6-201].
- 3) "Competent Medical Specialist" - a person licensed under the Medical Practice Act [225 ILCS 60], or similar law of another jurisdiction, to practice medicine in all of its branches [225 ILCS 60-1-1].
- 4) "Current Medical Report" - any medical report completed within three (3) months after of receipt by the Department which is signed and dated by a competent medical specialist.
- 5) "Department" - the Department of Driver Service of the Office of the Secretary of State.
- 6) "Department of Administrative Hearing" - the Department of Administrative Hearing of the Office of the Secretary of State.
- 7) "Driver" - any person who is currently licensed to operate a motor vehicle or any person applying for or renewing a driver's license.
- 8) "Driver Rehabilitation Specialist" - a person who possesses an undergraduate degree in rehabilitation, education, health, safety, therapy, or related profession; (or equivalent of 8 years of experience in driver rehabilitation); possesses a current Association of Driver Educators for the Disabled (ADED) Certification as a Driver Rehabilitation Specialist (consisting of successful completion of 100 clock hours of educational experience, in combination with safety and medical aspects of disabilities; a minimum of 30 hours must be gained from attending ADED approved courses or workshops).
- 9) "Favorable Medical Report" - a current medical report which has been completed in its entirety which does not require additional information and/or clarification or is not medically questionable. A favorable medical report specifies a professional opinion from the competent medical specialist that the driver is medically fit to safely operate a motor vehicle.
- 10) "Firsthand Knowledge" - information gleaned directly from its source.
- 11) "Illinois Medical Advisory (Board)" - a panel consisting of at least 9 physicians appointed by the Secretary pursuant to Section 6-902 of the Driver License Medical Review Law of 1992 [625 ILCS 5/6-902].

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- 12) "Incomplete Medical Report" - a medical report which has not been completed in its entirety, or a medical agreement which has not been signed and dated by the driver. Examples of an incomplete medical report include, but are not necessarily limited to: a medical report which does not include the name, address, signature or professional license number of the competent medical specialist, or the report which is not dated; or contains illegible information; or fails to answer any of the questions contained within the report.
- 13) "Law Enforcement" - police officer, sheriff, coroner, municipal prosecutor, or state's attorney.
- 14) "Mandatory Law Enforcement Report" - an unsigned message received by teletypewriter or computer by law enforcement containing the same information as the form designed by the Department. The message shall be directed to the Department and contain the date and name and address of the source sending the message. The message must also contain the name, address, date of birth and driver's license number, if known, of the driver.
- 15) ~~14~~ "Medical Agreement" - an agreement signed and dated by the driver, maintained in conjunction with a medical report and shall include the following conditions and/or information:
 - A) a condition that the driver remain under the care of his/her competent medical specialist;
 - B) a condition that the driver adhere to the treatment and/or medication;
 - C) authorization by the driver to the competent medical specialist to report any change in the driver's condition that would impair the driver's ability to operate a motor vehicle;
 - D) possible consequences for failing to abide by any or all of the conditions contained in the medical agreement.
- 16) ~~15~~ "Medical Denial" - an entry on a person's driving record by the Department indicating a driver may not renew his/her driver's license until the conditions set forth by the Department are met pursuant to this Section or Section 6-103 of the Illinois Vehicle Code [625 ILCS 5/6-103].
- 17) ~~16~~ "Medical Report" - a confidential medical questionnaire designed by the Department and approved by the Illinois Medical Advisory Board, or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department. The medical report shall be directed to the Department and contain the date the competent medical specialist completed the report and the name, address, signature and professional ~~profession~~ license number of the competent medical specialist. The report must also contain the name, address, date of birth and driver's license number, if known of the driver. A medical agreement upon execution by the driver shall be incorporated into and maintained on file with the

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driver's medical report.

- 18)177 "Medical Restriction Card" - a card designed and issued by the Department which describes and explains the limitations and/or conditions noted in the restriction area of a person's driver's license. The driver must abide by all the medical restriction placed on his/her license as describe on the medical restrictions card, and, upon receipt of the card from the Department, the driver must carry the medical card with his/her driver's license at all times.
- 19)180 "Medical Disorder or Disability" - a scientifically recognized condition which may medically impair a person's mental health to the extent he/she is unable to safely operate a motor vehicle.
- 20)197 "Motor Vehicle Departments of Foreign States" - departments in other states that issue driver's licenses.
- 21)207 "National Driver Register (NDR)" - files on drivers maintained by the U.S Department of Transportation, National Highway Traffic Safety Administration.
- 22)217 "Official Investigation" - the act of examining and inquiring into an occurrence or circumstance with care and accuracy by a duly authorized member of a local, state or federal agency while acting in his/her professional capacity.
- 23)227 "Physical Condition or Disability" - a scientifically recognized condition which may medically impair a person's physical health to the extent he/she is unable to safely operate a motor vehicle.
- 24)237 "Preliminary Favorable Medical Report" - a current medical report or a current written statement on official letterhead which is signed and dated by a competent medical specialist indicating in his/her professional opinion the driver is medically fit to safely operate a motor vehicle; however, additional information and/or clarification or consultation is needed.
- 25)247 "Problem Driver Pointer System" - a pointer file consisting of an index of problem drivers (as determined by adverse driver's license actions) that is maintained by a driver's home state (State of Record) and is accessed by other states (State of Inquiry) to determine if driver's license applicants are eligible.
- 26)257 "Questionable Medical Report" - a medical report which contains medical information which raises some reasonable doubt regarding the driver's medical ability to safely operate a motor vehicle. Examples of questionable medical reports include, but are not necessarily limited to:
- A) a medical report which indicates the driver has experienced an attack of unconsciousness within the past six (6) months; or
 - B) the medical report lacks a professional opinion indicating whether or not the driver is medically fit to safely operate

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- a motor vehicle; or
- C) the medical report was signed and/or completed by someone other than a competent medical specialist; or
 - D) the competent medical specialist recommends the driver have a driver's license, however, expresses reservations about the driver's ability to safely operate a motor vehicle.
- 27)267 "Rescind Order" - a removal by formal action of an order canceling or medically denying issuance of a driver's license to a person.
- 28)277 "Secretary of State Employee" - all supervisory personnel with the Department of Driver Service and the Department of Administrative Hearing.
- 29) "Self-Admission" - self-admission of the driver that he/she has a mental disorder/disability and/or physical condition or disability that may impair his/her ability to safely operate a motor vehicle or that is likely to cause a loss of consciousness (i.e., the inability of the driver to sustain consciousness throughout the entire interval in which he/she intends to drive).
- 30)287 "Termination of an Adjudication of Disability Order" - an order by a court of competent jurisdiction terminating an adjudication of disability of the driver pursuant to Sections 11a-2 and 11a-3 of the Probate Act of 1975 [755 ILCS 5/11a-2 and 5/11a-3].
- 31)297 "Termination Order" - the ending of an order canceling or medically denying the issuance of a driver's license to a person.
- 32)307 "Unfavorable Medical Report" - a medical report signed and completed by a competent medical specialist containing his/her professional opinion that due to a physical and/or mental disorder/disability the driver is not medically fit to operate a motor vehicle.
- 33)317 "Unfit to Stand Trial Order" - an order by a court of competent jurisdiction whereby a defendant, because of his/her mental or physical condition, ~~he/she~~ is unable to understand the nature and purpose of the proceeding against him/her or to assist in his/her defense pursuant to Article 104 of the Code of Criminal Procedure [725 ILCS 5/Art. 104].
- 32) "Voluntary-Self-Admission" - ~~self-admission-of--the-driver--that he/she-has-a-mental-disorder/disability-and/or-physical-condition or-disability-that-may-impair-his/her-ability-to-safely-operate-a motor-vehicle-~~
- b) The Department shall require a driver to submit a medical report from a competent medical specialist when:
 - 1) the driver answers in the affirmative to any question on the driver's license application regarding physical or mental health pursuant to Section 6-109 of the Illinois Vehicle Code [625 ILCS 5/6-109].
 - 2) the Department receives written comments and/or recommendations based upon firsthand knowledge or pursuant to an official

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investigation that brings into question a driver's physical or mental ability to safely operate a motor vehicle. Such comments and/or recommendations are confidential and must be submitted on official letterhead or a form designed by the Department and signed by one of the following source:

- A) a competent medical specialist;
- B) a law enforcement official;
- C) a member of the judiciary;
- D) a member of the Board;
- E) the National Driver Register;
- F) a Secretary of State employee;
- G) an employee of the U.S. Department of Transportation, Office of Motor Carriers;
- H) motor vehicle departments of foreign states;
- I) driver rehabilitation specialist;
- J) voluntary self-admission; or
- K) problem driver pointer system.

3) The Department receives an Adjudication of Disability court order where the court appointed a guardian to manage the financial affairs or the estate of the person.

4) The driver is renewing a driver's license which at the time of issuance required the driver to submit a medical report, except as provided in subsection (m) of this Section.

5) The Department receives a mandatory law enforcement report message based on first-hand knowledge or pursuant to an official investigation that brings into question a driver's physical or mental ability to safely operate a motor vehicle.

c) The Department shall cancel or medically deny the issuance of a driver's license upon receipt of an Adjudication of Disability order where the court appointed a guardian to make responsible decisions concerning the care of the person or of both the person and his/her financial affairs or estate, or the Department receives an order finding the driver unfit to stand trial.

1) The notice of cancellation shall be mailed to the court appointed guardian of the driver.

2) The cancellation order shall remain in effect until the court issues an order terminating the adjudication of disability; or the driver is found fit to stand trial.

3) After receipt of an order of restoration and prior to the termination of the cancellation, the Department shall request a favorable medical report. Upon receipt of a favorable medical report, the cancellation order shall be terminated and the person may reapply for a driver's license as outlined in Section 6-106 of the Illinois Vehicle Code [625 ILCS 5/6-106].

d) The Department shall cancel or medically deny a driver pursuant to Sections 6-103(8) and 6-201(a)(5) of the Illinois Vehicle Code [625 ILCS 5/6-103(8) and 6-201(a)(5)], if one or more of the sources listed in subsection (b)(2) of this Section submits a mandatory law

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enforcement report or a signed, written notification on official letterhead to the Department that based upon firsthand knowledge or pursuant to an official investigation the person was the driver of a motor vehicle involved in any type of accident or incident resulting from a seizure, an attack of unconsciousness or a blackout.

1) Following a cancellation or denial of a license pursuant to this subsection (d), the driver must submit a medical report to be forwarded to the Board and abide by all subsequent requests by either the Department or the Board, if any, for further information and/or clarification prior to being eligible to reapply for a driver's license.

2) Any medical reports and/or other information concurrently or subsequently received by the Department shall be referred along with the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in subsection (k) of this Section.

e) The Department is authorized to cancel, pursuant to Section 6-201(a)(8) of the Illinois Vehicle Code, any driver's license or permit upon determining that a driver failed to report to the Secretary of State the existence of a medical condition that is likely to cause loss of consciousness (i.e., inability of the driver to sustain consciousness throughout the entire interval in which he/she intends to drive) or loss of ability to safely operate a motor vehicle within 10 days after the driver becoming aware of the condition pursuant to Section 6-116.5 of the Illinois Vehicle Code [625 ILCS 5/6-116.5]. If a driver is canceled pursuant to this subsection (e) and a favorable medical report is subsequently received, the cancellation shall be rescinded, provided the driver is otherwise eligible for the driver's license.

f) When a driver is required to submit a medical report pursuant to subsections (b)(2), (3) and (5) of this Section, the Department shall furnish the appropriate form to be completed by a competent medical specialist to the driver. The driver must then resubmit the completed medical report to the Department within 20 days after issuance.

1) If a medical report is not received by the Department within the above specified time, the driver shall be canceled or medically denied a driver's license.

2) If a driver is canceled pursuant to this subsection (f) Subsection and a preliminary favorable or favorable medical report is subsequently received, the cancellation shall be rescinded, provided, an unfavorable report is not received in the interim.

g) If a driver fails to submit a medical report pursuant to subsection (b)(4) of this Section, the Department shall cancel or medically deny the driver pursuant to Sections 6-103(8) and 6-201(a)(5) of the Illinois Vehicle Code. If the Department subsequently receives a preliminary favorable or favorable report, the cancellation shall be

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rescinded, provided an unfavorable report is not received in the interim.

h)† If, pursuant to subsection (b) of this Section, the Department receives a favorable medical report, the Department shall issue or renew the person's driver's license, unless the driver is otherwise ineligible ~~for the same~~.

i)† If, pursuant to subsection (b) of this Section, the Department receives an unfavorable medical report, the Department shall cancel or medically deny the driver pursuant to Section 6-103(8) and 6-201(a)(5) of the Illinois Vehicle Code.

j)† If, pursuant to subsection (b) of this Section, the Department receives a preliminary favorable report, the Department shall issue or renew the person's driver's license, unless the driver is otherwise ineligible ~~for the same~~. The Department shall then make a further determination as to the type of information and/or clarification that is needed in order to finish processing the report.

1) If the report is incomplete or one which is not current, a request shall be made to the driver or the competent medical specialist for the necessary information required to process the report.

A) If the Department requests additional information from the driver, and the Department does not receive this information within 45 days after the written request, the Department shall cancel or medically deny the renewal of the person's driver's license pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code.

B) If the Department requests additional information from the competent medical specialist and the Department does not receive this information within 45 days after the written request, the driver shall be notified in writing that a current and complete medical report is needed. If the driver fails to comply within 45 days, the Department shall cancel or medically deny the driver's license pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code.

C) If a cancellation order is entered based upon an incomplete medical report or one which is not current and information is received to make the medical report favorable or preliminarily favorable, a rescind order shall be entered, provided an unfavorable medical report is not received in the interim.

2) If the report is questionable, the Department shall forward the medical report to the Board for determination as to the driver's ability to safely operate a motor vehicle as outlined in subsection (k) of this Section.

k)† If the Department receives a report or statement from a competent medical specialist indicating the driver failed to abide by any of the terms of the medical agreement, the Department shall:

1) cancel or medically deny the driver if the medical report or

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medical statement does not contain a professional opinion that the driver can safely operate a motor vehicle, and forward the entire case to the Board for determination as to the driver's ability to safely operate a motor vehicle pursuant to subsection (k) of this Section.

2) forward the entire case to the Board for determination as to the driver's ability to operate a motor vehicle pursuant to subsection (k) of this Section, if the medical report or medical statement contains a professional opinion that the driver can safely operate a motor vehicle.

3) cancel or medically deny a driver if the medical report or medical statement contains a professional opinion the driver cannot ~~can-not~~ safely operate a motor vehicle; the entire file shall be considered an unfavorable medical report as outlined in subsection (h) of this Section.

l)† The Department shall forward a driver's case to the Board when:

1) the driver was medically denied or canceled based upon the Board's last recommendation; or

2) the Board has requested to review intermittent reports; or

3) a different competent medical specialist submits a favorable medical report contradictory to an unfavorable medical report on file, which was used as the basis to deny or cancel driving privileges; or

4) the Department receives a questionable medical report; or

5) the Department receives notification the driver has failed to abide by any of the terms of his/her medical agreement; or

6) the Department receives a request from a driver who wishes to have all medical reports on file with the Department reviewed by the Board; or

7) the Department receives a request from a driver who wishes to appeal a Type B, C, D, E, F, G, JOL, or any other medical restriction which has been added to his/her driver's license pursuant to Section 1030.92 of this Part.

m)† When a case is referred to the Medical Advisory Board for review by the Department, the case shall be initially reviewed in the following manner:

1) The Chairperson or his/her designee shall assign the case to an individual Board member based upon his/her specialty or field of expertise in medicine. The Department shall serve as a correspondent for the collection and distribution of all medical reports and/or other information between the driver and the Board.

2) Upon receipt of the case from the Department the individual Board member shall review the entire file and prepare an informal determination regarding the driver's ability to safely operate a motor vehicle to the Chairperson or his/her designee.

A) The Board member shall consider the driver's past driving record as evidenced by his/her driving abstract, medical

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reports, and any other medical information deemed to have probative value by the Board member regarding the driver's case.

B) The Board member shall consider any medications and/or rehabilitative devices currently being used or available to the driver.

C) The Board member shall use the medical criteria listed in Section 1030.18 of this Part when reviewing the driver's medical condition.

3) When reviewing a driver's case, the Board member may require the driver to submit him/herself to further medical examination(s) and to agree to make the results of these examinations available to the Board member for use in rendering an informal determination.

A) The driver shall be solely responsible for the selection, scheduling, and expenses related to any additional examination(s) which may be required of the driver.

B) While the Board member may designate the type of physician or medical specialist with whom the driver needs further examination, the Board member shall not recommend a particular physician or medical specialist.

C) The driver shall have up to 45 days from the date of the request to submit additional reports to the Department.

D) Any driver who refuses to submit to additional examination(s) as requested or refuses to make these reports available to the Board member shall be canceled or medically denied until he/she complies with the Board member's request and the Board member is able to render an informal determination to the Chairperson pursuant to Section 6-201 and 6-103 of the Illinois Vehicle Code.

4) The informal determination shall include the medical condition of the driver and the limitations associated with the condition which could reasonably impair a driver's ability to safely operate a motor vehicle; the scope of driving privilege, if any; and the reasons for the Board member's decision.

5) All stages of the informal determination process shall be made as soon as reasonably possible given the individual Board member's and Chairperson's caseload and the complexity of the case.

6) The name of the Board member rendering the informal determination shall not be disclosed to the driver under review.

n) Upon receipt of the informal determination from the Board member, the Chairperson or his/her designee shall make a formal determination ~~an informal recommendation~~ to the Department regarding the driver's fitness to safely operate a motor vehicle and the scope of licensure, if any, including the use of mechanical devices and/or other conditions for driving.

1) The formal determination ~~informal recommendation~~ by the Chairperson or his/her designee shall include the existence of

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the medical condition and/or limitation which may impair the driver's ability to safely operate a motor vehicle.

2) The formal determination ~~informal recommendation~~ shall also be based upon the Findings of Fact and opinion of the individual Board member including, but not necessarily limited to, medical evaluations, reports submitted by medical specialists, medications taken by the driver, and his/her driving record, and other scientifically recognized information commonly accepted in the medical profession.

3) The formal determination ~~informal recommendation~~ shall also indicate the scope of driving privileges which would enable the driver to safely operate a motor vehicle, including the extent, if any, to which compensatory aids and devices which must be used and the need of future controls.

4) In the event driving privileges are restricted or denied the formal determination ~~recommendation~~ shall also state the reasoning for such restriction or denial in accordance with the medical criteria stated in Section 1030.18 of this Part.

5) The Chairperson or his/her designee shall have the authority to confer with the Board member who rendered the determination in the event the Chairperson or his/her designee needs to confirm or clarify any portion of the Board member's informal determination ~~Formal Determination~~.

o) Upon receipt of the formal determination ~~informal recommendation~~ the Department shall take the appropriate action depending upon the recommendation of the Chairperson or his/her designee on behalf of the Board.

1) If the Department receives a recommendation from the Board that in its professional opinion the driver is not medically fit to safely operate a motor vehicle, the Department shall enter an order canceling or medically denying the driver pursuant to Sections 6-201 and 6-103 of the Illinois Vehicle Code.

2) If the Department receives a recommendation from the Board that in its professional opinion the driver is medically fit to safely operate a motor vehicle, the Department shall rescind or terminate any medically related cancellation orders and allow the driver to make application for a new driver's license pursuant to Sections 1-110, 6-106, and 6-109 of the Illinois Vehicle Code [625 ILCS 5/1-110, 6-106, and 6-109].

A) The Department shall rescind the cancellation if the cancellation was for failure to comply with a request by either the Department or the Board.

B) The Department shall terminate the cancellation if the cancellation was based upon a previous unfavorable medical report, and the driver is otherwise in compliance with this Section.

p) If a driver desires to contest a restriction, cancellation, or denial of his/her driving privileges, the Department must receive a request

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from the driver for a formal review of his/her case within 30 days after the action taken by the Department. Formal review of the driver's case shall be made by a panel of 3 Board members selected by the Chairperson or his/her designee based upon the Board member's specialty or field of expertise. The Board member who rendered the formal determination shall participate in the formal review process. The following procedure shall apply to a case under formal review:

- 1) The Department shall notify the driver immediately and confirm the driver's request for Panel review within 7 working days after receipt of the same.
- 2) The notice shall specifically state the driver has up to 45 days from the date of the notice to submit all additional medical reports to the Department for consideration by the Panel, if he/she so chooses.
- 3) If the driver desires to furnish additional medical reports and/or statements he/she may do so by submitting all reports and statements together as one complete document for review by the Panel. The document must be delivered to the Department at the address as indicated on the confirmation notice.
- 4) The Department shall at the direction of the Chairperson or his/her designee prepare and forward the entire case to the Review Panel upon receipt of the document from the driver, or a written statement from the driver indicating he/she does not wish to submit additional reports, or at the expiration of 45 days, whichever occurs first.
- 5) Each member shall consider the contents of the file which was used to make the formal determination, including additional medical reports submitted by the driver on his/her behalf and new entries listed on the driver's driving record, if any. The Panel shall use the same medical criteria and procedure that apply when reviewing an individual case, including the ability to request additional medical examinations as found in subsection (m)(4)(3) of this Section. The Review Panel shall only consider evidence which exists in written form. No oral testimony shall be allowed during this type of review.
- 6) The formal determination under Panel review shall be made as soon as reasonably possible given the Board member and Chairperson's caseload, and the complexity of the case. Panel review cases shall be given priority over the review of individual cases.
- 7) Upon completion of the Panel review, the informal determination of each Panel review member shall be forwarded to the Chairperson or his/her designee. The informal determination shall contain the same elements as outlined in subsection (m)(4)(4) of this Section.
- 8) Any restriction of driving privileges, cancellation, or medical denial shall remain in effect unless and until the Department notifies the driver to the contrary.

g) Upon receipt of each of the Review Panel's determinations, the

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Chairperson or his/her designee shall make a formal recommendation to the Department regarding the driver's ability to safely operate a motor vehicle and the scope of licensure, if any, including the use of mechanical devices and/or other conditions for driving.

- 1) The recommendation of the Chairperson or his/her designee shall be based upon the majority ruling of the review Panel member's informal determinations.
 - 2) The Chairperson shall have the authority to confer with the members of the Review Panel in order to confirm, clarify, and formulate the recommendation to the Department.
 - 3) The Chairperson's recommendation shall contain the same elements as outlined in subsections (m)(1) through (4) of this Section.
- h) The Department shall follow the recommendation of the Chairperson or his/her designee based upon the formal determination rendered by the Review Panel.

1) If the Department receives a formal recommendation from the Chairperson or his/her designee to uphold the decision of the individual Board member who first reviewed the case, the action taken by the Department shall remain in effect.

2) If the Department receives a formal determination from the Chairperson or his/her designee to amend the original determination of the Board member who first reviewed the case, the Department shall follow the determination of the Panel, including the recommendation of the granting of full or limited driving privileges or complete cancellation or denial of the driving privileges.

3) The driver shall be notified immediately in writing by the Department of the Panel's formal determination along with any change to his/her driving privileges. The driver shall also be notified in writing of his/her right to request a medical hearing regarding the determination rendered by the Hearing Panel.

i) A driver who wants to contest the cancellation or medical denial of his/her driver's license or his/her privileges to obtain a driver's license for medical reasons shall be entitled to a hearing in accordance with 92 Ill. Adm. Code 1001.Subparts A and E, and Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118].

j) Unless a competent medical specialist has submitted a medical report indicating the physical or mental condition or disability no longer exists, the Department shall require the driver to submit a medical report at each driver's license renewal.

1) The Department shall notify the driver at least 30 days prior to the expiration of his/her driver's license. Such notification shall be in writing and mailed to the driver's last known address as indicated on the Department's driving record file.

2) The notice shall state that the driver must submit a medical report when renewing his/her driver's license.

k) The Department shall require a driver to appear at a Driver Services facility to receive a corrected driver's license if a competent

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medical specialist or the Board recommends a driver's license restriction pursuant to Section 1030.92 of this Part.

- 1) The Department shall immediately provide written notification to the driver at his/her last known address as indicated on the Department's driving record file. The notice shall also state failure to comply within 20 days after the request, will result in the cancellation of the person's driver's license pursuant to Section 6-201.5 of the Illinois Vehicle Code, provided a subsequent medical report is not received from the same competent medical specialist indicating the medical restriction is no longer necessary.
 - 2) The Department shall mail a medical card to the driver describing the restriction(s) on his/her driver's license.
 - 3) The driver must abide by the restriction(s) contained on the card.
 - 4) The driver upon receipt of the medical card from the Department shall carry the medical card with his/her driver's license whenever the driver operates a motor vehicle.
 - 5) If a driver is canceled for failing to comply with a request from the this Department pursuant to this subsection (u), and the driver subsequently complies with all requests of the Department, the cancellation shall be rescinded.
- v) The Department shall require periodic medical reports between renewals if so recommended by a competent medical specialist or the Board.

(Source: Amended at 21 Ill. Reg. 6583, effective 1/1/17)

Section 1030.18 Medical Criteria Affecting Driver Performance

The competent medical specialist and the Medical Advisory Board shall review the driver's case taking into consideration the driver's medical condition in determining the medical fitness of the driver to safely operate a motor vehicle. ~~Upon receipt of the driver's case from the Department, the Board shall review the case taking into consideration the driver's medical condition in determining the medical fitness of the driver to safely operate a motor vehicle.~~

- a) For purposes of this Section, the following definitions shall apply:

"Competent Medical Specialist" - a person licensed under the Medical Practice Act, or similar law of another jurisdiction, to practice medicine in all of its branches [225 ILCS 60].

"Department" - the Department of Driver Services of the Office of the Secretary of State.

"Driver" - any person who is currently licensed to operate a

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motor vehicle or any person applying for or renewing a driver's license.

"Functional Ability" - the degree of cognitive, mental, or emotional sensor motor, and sensory capability in performing activities of daily living, including safely performing driving tasks.

"Illinois Medical Advisory Board (Board)" - a panel consisting of at least 9 physicians appointed by the Secretary pursuant to Section 6-902 of the Driver's License Medical Review Law of 1992 [625 ILCS 5/6-902].

"Medical Denial" - an entry on a person's driving record by the Department indicating a driver may not renew his/her driver's license until the conditions set forth by the Department are met pursuant to this Section or Section 6-103 of the Illinois Vehicle Code [625 ILCS 5/6-103].

"Medical Report" - a confidential medical questionnaire designed by the Department and approved by the Illinois Medical Advisory Board, or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department. The medical report shall be directed to the Department and contain the date the competent medical specialist completed the report and the name, address, signature and professional license number of the competent medical specialist. The report must also contain the name, address, date of birth and driver's license number, if known, of the driver. A medical agreement upon execution by the driver shall be incorporated into and maintained on file with the driver's medical report.

"Mental Disorder or Disability" - a scientifically recognized condition which may medically impair a person's mental health to the extent he/she is unable to safely operate a motor vehicle.

"Physical Condition or Disability" - a scientifically recognized condition which may medically impair a person's physical health to the extent he/she is unable to safely operate a motor vehicle.

"Road Test" - an actual demonstration of the applicant's ability to operate a motor vehicle as required by Section 6-109 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-109].

"Self-Admission" - self-admission of the driver that he/she has a mental disorder/disability and/or physical condition or disability that may impair his/her ability to safely operate a

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motor vehicle that is likely to cause a loss of consciousness (i.e., the inability of the driver to sustain consciousness throughout the entire interval in which he/she intends to drive).

"Vision Screening" - readings of an applicant's visual acuity and peripheral fields of vision obtained by a physician, ophthalmologist, optometrist or Department representative.

b) ~~a~~ The competent medical specialist and the Board shall apply the following medical criteria ~~needed-to-safely-operate-a-motor-vehicle~~ ~~where-applicable~~ when rendering a medical ~~an~~ opinion of a driver's ability to safely operate a motor vehicle to the Department.

1) The driver must possess the emotional and intellectual ability to operate a motor vehicle. Specifically, the driver's medical condition must be controlled as follows ~~driver must~~:

- A) be free from distractions of hallucinations;
- B) be free from impulsive behavior, homicidal tendencies, and/or suicidal tendencies;
- C) be oriented with advanced preparation of his/her destination;
- D) be able to recognize and understand symbols of language and road signs and possess the ability to not only see objects in his/her field of vision, but also to recognize their significance and to react to them with sufficient speed to avoid a catastrophe;
- E) possess sufficient memory facility to recall his/her destination, recall the significance of road signs and hazards, and recall the operational control of his/her motor vehicle; ~~be able to not only see objects in his/her field of vision; but also to recognize their significance and to react to them with sufficient speed to avoid a catastrophe;~~

P) ~~possess sufficient memory facility to recall his/her destination; recall the significance of road signs and hazards; and recall the operational control of his motor vehicle;~~

F) ~~G~~ be able to distinguish left from right and to judge distance and relative speed of his/her motor vehicle as well as other vehicles which may present a potential danger.

2) The driver must possess the motor and sensory ability to safely operate a motor vehicle. Specifically, the driver's medical condition must be controlled as follows ~~driver must~~:

- A) possess the ability to sit in a stable and ~~stably in an~~ erect posture and hold his/her head erect throughout the interval he/she intends to drive;
- B) be able to turn his/her head at least 25 degree in either direction in order to amplify the field of visions;
- C) be able to control the motor vehicle with ease, including the gripping of the steering wheel, reaching of the controls

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and pedals, all without unbalancing or stressing the driver;

D) be able to perform all routine operations of the motor vehicle with steady, well coordinated movements ~~and without undue nervousness~~. The reaction time of the driver must be average and not limited by muscle, joint or skeletal deformity.

3) The driver must have the ability to sustain consciousness throughout the entire interval in which he/she intends to drive.

4) The driver must be free from severe pain which could cause sudden incapacitation or the inability to control a motor vehicle.

5) The driver must be able to meet the vision requirements as found in Ill. Adm. Code 1030.70 and 1030.75.

6) The driver must not be medicated as to render him/herself incapable of ~~to perform other basic tasks necessary to safely operating~~ operate a motor vehicle.

c) ~~b~~ The competent medical specialist and the Board shall evaluate the severity and/or limitations of the medical condition a driver may have on a case by case basis. The Board may at any time request additional information to assist them in evaluating the driver's case. The Board shall also take into account the driver's past driving history, including accidents, and any underlying documents requested by the Board or submitted by the driver in question relating to the accident, as well as all medication and/or mechanical mechanism being used by, or otherwise available to, the driver.

d) ~~e~~ The competent medical specialist and the Board have ~~has~~ the authority ~~ability~~ to recommend full or limited driving privileges to the Department, including, but not limited to, restricted driving hours, or miles, use of mechanical devices, and other conditions which the competent medical specialist and the Board deem ~~deems~~ appropriate, such as requesting follow-up medical reports, depending upon the circumstances of the case.

e) The competent medical specialist and the Board have the authority to recommend medical denial of driving privileges indefinitely, or for a specific period of time.

f) Information to the extent known by the competent medical specialist to be considered by him/her in determining if an individual is medically fit to safely operate a motor vehicle, including but not limited to:

- 1) History of illness;
- 2) Severity of symptoms and prognosis;
- 3) Complications and/or co-morbid conditions;
- 4) Treatment and medications, effects and side effects, and person's knowledge and use of medications;
- 5) Results of medical tests and reports of laboratory findings;
- 6) Functional ability, including mental or emotional function;
- 7) Reports of driver conditions or behavior;
- 8) Traffic accidents that have been caused by a medical condition. Temporary medical conditions (e.g., broken limbs) are not to be

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- g) considered under this subsection (f).
The Department shall determine if an individual is qualified to safely operate a motor vehicle based on a vision test, the individual's knowledge of traffic laws, road signs and rules of the road, vehicle equipment and safe driving practices and a road test as outlined in Section 6-109 of the Illinois Vehicle Code [625 ILCS 5/6-109].

(Source: Amended at 21 Ill. Reg. 6583, effective

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NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) Section Numbers: Peremptory Action:
125.340 Amendment
125.360 Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650/16]; the Federal Poultry Products Inspection Act (21 U.S.C.A. 454); 62 FR 5139 (1997).
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650].
- 6) Effective Date: May 20, 1997
- 7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal poultry products inspection program as required by the Federal Poultry Products Inspection Act and in compliance with Section 16 of the Meat and Poultry Inspection Act, changes in the federal rules relative to poultry products inspection are hereby adopted.

The Food Safety and Inspection Service (FSIS) is "amending the poultry products inspection regulations to clarify and strengthen the enforcement of FSIS's zero-tolerance policy regarding visible fecal material on poultry carcasses. FSIS is amending its regulations to codify an existing standard that ensures poultry carcasses contaminated with fecal material do not enter the chilling tank. In order to clarify the enforcement of this policy, this rule removes "feces" as a nonconformance element in the finished product standards for poultry." (February 4, 1997 issue of the Federal Register, page 5139).

- 8) Does this rulemaking contain an automatic repeal date? No

- 9) Date Filed in Agency's Principal Office: May 19, 1997

- 10) This rule is in compliance with Section 5.03 of the Illinois Administrative Procedure Act.

- 11) Are there any proposed amendments pending to this Part? Yes, 21 Ill. Reg. 4067, April 4, 1997.

<u>Section Numbers:</u>	<u>Proposed Action:</u>
125.10	Amended
125.20	Amended
125.30	Amended

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13) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713
Facsimile: 217/785-4505

The full text of the Peremptory Amendments begins on the next page:

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125.40 Amended
125.50 Amended
125.60 Repealed
125.80 Amended
125.90 Amended
125.100 Amended
125.110 Amended
125.120 Amended
125.130 Amended
125.140 Amended
125.141 New Section
125.142 New Section
125.143 New Section
125.150 Amended
125.160 Amended
125.170 Amended
125.180 Amended
125.190 Amended
125.200 Amended
125.210 Amended
125.220 Amended
125.230 Amended
125.240 Amended
125.250 Amended
125.260 Amended
125.270 Amended
125.280 Amended
125.290 Amended
125.295 Repealed
125.300 Amended
125.305 Amended
125.310 Amended
125.320 Amended
125.330 Amended
125.340 Amended
125.350 Amended
125.360 Amended
125.370 Amended
125.380 Amended
125.390 Amended
125.400 Amended
125.410 Amended

12) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local governments.

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER C: MEAT AND POULTRY INSPECTION ACT

PART 125

MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR
POULTRY INSPECTION

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments
125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product
125.280	Meat Definitions and Standards of Identity or Composition
125.290	Transportation
125.295	Imported Products
125.300	Special Services Relating to Meat and Other Products

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125.305 Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
125.350	Ante-Mortem Inspection
125.360	Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370	Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380	Labeling and Containers
125.390	Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400	Definitions and Standards of Identity or Composition
125.410	Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; peremptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; peremptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; peremptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; peremptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; peremptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; peremptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; peremptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; peremptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; peremptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; peremptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; peremptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; peremptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; peremptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; peremptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; peremptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; peremptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; peremptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; peremptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; peremptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; peremptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; peremptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; peremptory amendment at 11 Ill. Reg. 18799, effective November

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3, 1987; peremptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; peremptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; peremptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; peremptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; peremptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; peremptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; peremptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; peremptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; peremptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; peremptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; peremptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; peremptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; peremptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; peremptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; peremptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; peremptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; peremptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; peremptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; peremptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; peremptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; peremptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; peremptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; peremptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; peremptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; peremptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; peremptory amendment at 19 Ill. Reg.

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16866, effective December 22, 1995; peremptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; peremptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; peremptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; peremptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; peremptory amendment at 21 Ill. Reg. 6609, effective MAY 2, 1997.

SUBPART C: POULTRY INSPECTION

Section 125.340 Operating Procedures

- a) The Department incorporates by reference 9 CFR 381.65 through 381.66 (1990; 60 FR 44396, effective August 26, 1996); 62 FR 5139, effective May 5, 1997.
- b) The bar-cut method of evisceration shall not be used.
- c) Cut-up poultry may be processed from unchilled eviscerated poultry only in air conditioned rooms (50 degrees F. or less).
- d) The meltage of ice in the chilling system shall be counted toward the minimum fresh water intake requirements provided an accurate measurement of the amount of melted ice can be obtained.
- e) Reference to the Poultry Inspector's Handbook shall mean the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- f) The Department shall approve the shipment of poultry in operational type containers, such as chill tanks or lugs, from one official establishment to another official establishment for further processing provided the means of conveyance is sealed and the poultry can reach its destination in accordance with the general chilling requirements as stated in this Section (see 9 CFR 381.66(b)).
- g) Ready-to-cook poultry shall be permitted to be moved from an official establishment prior to freezing in accordance with the specific requirements as stated in 9 CFR 381.66(f)(3).
- h) Compounds used in immersion or spray freezing procedures shall be those that are listed in the "List of Proprietary Substances or Nonfood Compounds" as adopted by the Department in Section 125.20.

(Source: Peremptory amendment at 21 Ill. Reg. 6609, effective MAY 2, 1997.)

Section 125.360 Post-Mortem Inspection; Disposition of Carcasses and Parts

- a) The Department incorporates by reference 9 CFR 381: Subpart K (1990); 62 FR 5139, effective May 5, 1997.
- b) Carcasses of rabbits affected with or showing lesions of any of the following named diseases or conditions shall be condemned: Tularemia,

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anthrax, hemorrhagic septicemia, pyemia, septicemia, leukemia, acute enteritis, peritonitis, sarcomatosis, metritis, necrobacillosis (Smolt's Disease), tuberculosis, emaciation, streptobacillary pseudotuberculosis, and advanced stages of snuffles. Rabbits from pathological laboratories shall be condemned.

c) Carcasses of rabbits showing any disease, such as generalized melanosis and pseudoleukemia which systemically affect the rabbit, shall be condemned.

d) Any organ or part of a rabbit carcass which is badly bruised or which is affected by an abscess or a suppurating sore, shall be condemned. Parts or carcasses of rabbits which are contaminated by pus shall be condemned.

e) Carcasses of rabbits contaminated by volatile oils, paints, poisons, gases or other substances which affect the wholesomeness of the carcass shall be condemned.

f) All carcasses of rabbits so infected that consumption of the meat or meat food products thereof may give rise to meat poisoning shall be condemned. This includes all carcasses showing signs of any of the following diseases: Acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges, septicemia or pyemia (whether traumatic, or without evident cause), gangrenous or severe hemorrhagic enteritis or gastritis, polyarthritis and acute nephritis. Immediately after the slaughter of any rabbit so infected, the infected premises and implements used shall be sanitized. The part or parts of any carcass coming into contact with the carcass or any part of the carcass of any rabbit listed in this paragraph other than those affected with acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges, shall be condemned.

g) Carcasses of rabbits showing any degree of icterus with a parenchymatous degeneration of organs, the result of infection or intoxication, and those which, as a result of a pathological condition show an intense yellow or greenish-yellow discoloration without evidence of infection or intoxication shall be condemned.

h) Carcasses of rabbits affected with mange or scab in advanced stages or showing emaciation or extension of the inflammation to the flesh shall be condemned. When the diseased condition is localized, the carcass shall be passed for food purposes after removal and condemnation of the affected parts.

i) In the disposal of carcasses and parts of carcasses of rabbits showing evidence of infestation with parasites not transmissible to man, the following general rules shall govern: If the lesions are localized in such manner and are of such character that the parasites and the lesions caused by them may be radically removed, the non-affected portion of the carcass, or part of the carcass, shall be certified for food purposes after the removal and condemnation of the affected portions. Where a part of a carcass shows numerous lesions caused by parasites, or the character of the infestation is such that complete extirpation of the parasites and lesions is difficult and uncertainly

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accomplished, or if the parasitic infestation or invasion renders the organ or part in any way unfit for food, the affected organ or part shall be condemned. Where parasites are found to be distributed in a carcass in such a manner or to be of such a character that their removal and the removal of the lesions caused by them are impracticable, no part of the carcass shall be certified as capable for use as human food and the entire carcass shall be condemned. Carcasses of rabbits infested with a hydatid cyst or cysts (Echinococcus granulosus), transmissible to dogs and from dogs to man, shall in all cases be condemned regardless of the degree of infestation.

j) Carcasses of rabbits showing such degree of emaciation or anemic condition as would render the meat unwholesome, and carcasses which show a slimy degeneration of the fat or a serious infiltration of the muscles shall be condemned.

k) Carcasses of poultry, the viscera and any part removed from the carcass shall be kept together and identified by a lot number until the inspector performs a post-mortem inspection.

l) The Department's hearing rules are set forth in Section 125.60.

(Source: Peremptory amendment at 21 Ill. Reg. 360, effective _____)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION

Pursuant to Section 4-5(g) & (h) of the Residential Mortgage License Act of 1987, 205 ILCS 635/4-5(g) & (h) 1994, notice is hereby given that the Office of Banks and Real Estate of the State of Illinois has revoked the license of International Financial Corporation, License #3021, effective the 7th day of May, 1997.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC AID

Heading of the Part: Food Stamps

Code Citation: 89 Ill Adm Code 121

Section Numbers: 121.93
121.94
121.98

Date Originally Published in the Illinois Register: 8/30/96
20 Ill Reg 11581

At its meeting on May 13, 1997, the Joint Committee on Administrative Rules objected to the above cited rulemaking because the Department violated Sections 5-10(c), 5-35(a) and 5-35(b) of the Illinois Administrative Procedure Act (IAPA) by implementing the Electronic Benefits Transfer (EBT) program on a limited basis without having any rules in place governing its operation.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC AID

Heading of the Part: Related Program Provisions

Code Citation: 89 Ill Adm Code 117

Section Numbers: 117.10
117.11
117.12
117.13

Date Originally Published in the Illinois Register: 8/30/96
20 Ill Reg 11593

At its meeting on May 13, 1997, the Joint Committee on Administrative Rules objected to the above cited rulemaking because the Department violated Sections 5-10(c), 5-35(a) and 5-35(b) of the Illinois Administrative Procedure Act (IAPA) by implementing the Electronic Benefits Transfer (EBT) program on a limited basis without having any rules in place governing its operation.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 13, 1997 through May 19, 1997 and have been scheduled for review by the Committee at its June 17, 1997 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
6/27/97	Illinois Housing Development Authority, Low-Income Housing Tax Credit Allocation (47 Ill Adm Code 350)	3/28/97 21 Ill Reg 3790	6/17/97
6/27/97	Department of Mental Health and Developmental Disabilities, Grants (59 Ill Adm Code 103)	2/7/97 21 Ill Reg 1518	6/17/97
6/27/97	Department of Mental Health and Developmental Disabilities, Minimum Standards for Certification of Developmental Training Programs (59 Ill Adm Code 119)	2/7/97 21 Ill Reg 1532	6/17/97
6/27/97	Department of Mental Health and Developmental Disabilities, Standards and Licensure Requirements for Community-Integrated Living Arrangements (59 Ill Adm Code 115)	2/7/97 21 Ill Reg 1563	6/17/97
6/27/97	Department of Mental Health and Developmental Disabilities, Minimum Standards for Licensure of Community Residential Alternatives (59 Ill Adm Code 113)	2/7/97 21 Ill Reg 1545	6/17/97
6/27/97	Department of Mental Health and Developmental Disabilities, Early Intervention Program (59 Ill Adm Code 121)	2/7/97 21 Ill Reg 1506	6/17/97
6/27/97	Department of Mental Health and Developmental Disabilities, Medicaid Community Mental Health Services Program	2/7/97 21 Ill Reg 1527	6/17/97

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

6/27/97	(59 Ill Adm Code 132) Department of Natural Resources, Camping on Department of Natural Resources Properties (17 Ill Adm Code 130)	3/28/97 21 Ill Reg 3809	6/17/97	6/29/97	Illinois Student Assistance Commission, College Savings Bond Bonus Incentive Grant (BIG) Program (23 Ill Adm Code 2771)	2/14/97 21 Ill Reg 1837	6/17/97
6/27/97	Department of Natural Resources, White-Tailed Deer Hunting by Use of Firearms (17 Ill Adm Code 650)	3/28/97 21 Ill Reg 3817	6/17/97	7/2/97	Office of the State Fire Marshal, Policy and Procedures Manual for Fire Protection Personnel (41 Ill Adm Code 140)	6/21/96 20 Ill Reg 8116	6/17/97
6/27/97	Department of Natural Resources, White-Tailed Deer Hunting Season by Use of Muzzleloading Rifles (17 Ill Adm Code 660)	3/28/97 21 Ill Reg 3823	6/17/97	7/2/97	Illinois Student Assistance Commission, Limitation, Suspension and Termination Proceedings (23 Ill Adm Code 2790)	2/14/97 21 Ill Reg 2002	6/17/97
6/27/97	Department of Natural Resources, Boat and Snowmobile Registration and Safety (17 Ill Adm Code 2010)	3/28/97 21 Ill Reg 3803	6/17/97	7/2/97	Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill Adm Code 1040)	3/14/97 21 Ill Reg 3060	6/17/97
6/28/97	Illinois Educational Facilities Authority, Functions and Planning Program (23 Ill Adm Code 2310)	3/21/97 21 Ill Reg 3365	6/17/97				
6/28/97	Department of Public Aid, Medical Assistance Programs (89 Ill Adm Code 120)	3/14/97 21 Ill Reg 3027	6/17/97				
6/28/97	Department of Central Management Services, The Travel Regulation Council (80 Ill Adm Code 3000)	3/21/97 21 Ill Reg 3353	6/17/97				
6/28/97	Department of Corrections, Reimbursement for Expenses (20 Ill Adm Code 110)	3/21/97 21 Ill Reg 3360	6/17/97				
6/29/97	Illinois Student Assistance Commission, State Scholar Program (23 Ill Adm Code 2760)	2/14/97 21 Ill Reg 2120	6/17/97				
6/29/97	Illinois Student Assistance Commission, Merit Recognition Scholarship (MRS) Program (23 Ill Adm Code 2761)	2/14/97 21 Ill Reg 2025	6/17/97				
6/29/97	Illinois Student Assistance Commission, Student to Student (STS) Program of Matching Grants (23 Ill Adm Code 2770)	2/14/97 21 Ill Reg 2133	6/17/97				

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Proclamations

97-275

JACKIE ROBINSON DAY

Whereas, Jackie Roosevelt Robinson was a pioneer in Major League Baseball; and

Whereas, in 1947, Jackie Robinson became the first African-American to play on a Major League Baseball team; and

Whereas, in addition to his accomplishments on the baseball diamond, Jackie Robinson spoke out for civil rights, marched with Martin Luther King, Jr. and was a founding board member of the National Rainbow/PUSH Coalition; and

Whereas, on May 10, 1997, the Robinson Family, along with the National League and the Reverend Jesse Jackson, will host Jackie Robinson Day to pay tribute to the life of Jackie Robinson;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May

10, 1997, as JACKIE ROBINSON DAY in Illinois.

Issued by the Governor May 7, 1997.

Filed by the Secretary of State May 16, 1997.

97-276

STAMP COLLECTING WEEK

Whereas, philatelists and others interested in stamp collecting have gathered for the past 39 years for COMPEX (Combined Philatelic Exhibition of Chicago and); and

Whereas, hundreds of frames of rare and unusual stamps will be displayed at COMPEX; and

Whereas, COMPEX is the largest club-sponsored show in the United States, presenting the widest range of exhibits by children and adults alike; and

Whereas, the theme for this year's COMPEX show is "The 150th Anniversary of the Donut Hole;"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 19-25, 1997, as STAMP COLLECTING WEEK in Illinois and welcome all visitors and exhibitors to our State, wishing them a rewarding and enjoyable visit.

Issued by the Governor May 7, 1997.

Filed by the Secretary of State May 16, 1997.

97-277

AMIGOS DE SER DAY

Whereas, SER Jobs for Progress, Inc. is a national organization that focuses on the unemployment and training needs of Hispanic Americans and has been recognized throughout the nation and by Congress as "a community-based organization of demonstrated effectiveness"; and

Whereas, since 1987, SER (Service, Employment, and Redevelopment) has provided employment and training services to thousands of individuals in our State; and

Whereas, a group of our nation's major corporations has forged a new partnership with SER to provide private assistance in the employment, education, and training process; and

Whereas, the Amigos de SER Business Recognition Luncheon will be held May

15;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 15, 1997, as AMIGOS DE SER DAY in Illinois.

Issued by the Governor May 8, 1997.

Filed by the Secretary of State May 16, 1997.

97-278

BIRD DAY

Whereas, the non-profit organization Maiden Flight seeks to create and restore habitats for birds at our homes, workplaces, local parks and wildlife refuges; and

Whereas, the Maiden Flight organization began the annual national commemoration of Bird Day to teach others about the role that birds play in our environment; and

Whereas, on Bird Day, citizens are encouraged to take part in bird conservation by planting shrubs and trees, hanging birdhouses, and offering food and water to birds;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 15, 1997, as BIRD DAY in Illinois.

Issued by the Governor May 8, 1997.

Filed by the Secretary of State May 16, 1997.

97-279

GRAD FEST CELEBRATION DAYS

Whereas, Grad Fest is a not-for-profit organization that recognizes, honors and promotes educational growth among college-bound students, college graduates and alumni; and

Whereas, the purpose of Grad Fest is to offer educational opportunities through annual scholarships, career fairs and college fairs in order to help support all students interested in bettering themselves; and

Whereas, Grad Fest will host the largest College Graduation Celebration among the nation's black college and universities, with the theme, "Celebrating Education," on June 26-28, 1997, to honor all college graduates from around the United States;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 26-28, 1997, as GRAD FEST CELEBRATION DAYS in Illinois.

Issued by the Governor May 8, 1997.

Filed by the Secretary of State May 16, 1997.

97-280

SHARON LATIKER DAY

Whereas, the Phi Delta Kappa, "A Professional Organization for individuals who function in roles of leadership, research and/or service in education," has recognized the outstanding leadership, qualifications and commitment of a dedicated educator of many years; and

Whereas, a professional educator has served as School Administrator for the Evangelical Christian School for seven years and has touched the future and left lasting positive impressions on the lives and education of many children and is presently matriculating in a Doctoral program in pursuit of a Doctor of

Education degree so as to better and further impact the lives and education of young people; and

Whereas, while Sharon Latiker has attained remarkable and preeminent achievements and performance goals, she has kept her family in her heart, fully involving herself in their lives; and

Whereas, Sharon Latiker has met the criteria to receive the Educator of the Year Award presented by Phi Delta Kappa;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 15, 1997, as SHARON LATIKER DAY in Illinois.

Issued by the Governor May 8, 1997.

Filed by the Secretary of State May 16, 1997.

97-281

SMALL BUSINESS WORKS FOR ILLINOIS DAY

Whereas, small business works for America by providing jobs for almost 60 percent of the private-sector workforce; and

Whereas, small business works for America by creating two of every three net new jobs; and

Whereas, small business works for America by providing that all-important first job to virtually all inexperienced workers; and

Whereas, small business works for America by producing nearly 40 percent of the Gross Domestic Product; and

Whereas, small business works for America by being the most innovative economic power in the world, producing more major inventions--and bringing them to the market more quickly--than their larger competitors, both domestic and foreign; and

Whereas, small business works for American and Illinois by playing a vital and enriching role in community life, underwriting innumerable local civic, cultural, educational, recreational and charitable endeavors;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1, 1997, as SMALL BUSINESS WORKS FOR ILLINOIS DAY in Illinois.

Issued by the Governor May 8, 1997.

Filed by the Secretary of State May 16, 1997.

97-282

AIRBORNE DAY

Whereas, the Parachute Test Platoon was authorized by the War Department on June 25, 1940, to experiment with the potential use of airborne troops; and

Whereas, the Parachute Test Platoon, composed of 48 volunteers, began training in July 1940; and

Whereas, the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940; and

Whereas, the success of the Parachute Test Platoon led to the formation of a large and successful airborne contingent serving in World War II to the present; and

Whereas, those veterans of Illinois that have served in the airborne forces are determined to continue and foster that special esprit de corps among fellow paratroopers and to perpetuate the memory of those paratroopers who fought and died for our nation, and to further the bond among all members of the airborne community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 16, 1997, as AIRBORNE DAY in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-283

AMATEUR ALL-STAR BASEBALL WEEK

Whereas, baseball has long been an important part of growing up for millions of young men and women throughout the United States; and

Whereas, amateur baseball leagues around the country have taught players young and old the value of sportsmanship, competition and hard work; and

Whereas, in the spirit of this American pastime, the non-profit youth baseball organization, Amateur All-Star Baseball, Inc., created the National Amateur All-Star Baseball Tournament to offer invaluable experience and spirited competition to some of today's best players aged 16-18; and

Whereas, Chicago will host this year's National Amateur All-Star Baseball Tournament at Comiskey Park on June 24-30;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 24-30, 1997, as AMATEUR ALL-STAR BASEBALL WEEK in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-284

BOLINGBROOK TROJAN YOUTH ATHLETIC ASSOCIATION DAY

Whereas, the Bolingbrook Trojan Youth Athletic Association was formed in August 1972; and

Whereas, the Bolingbrook Trojan Youth Athletic Association is a not-for-profit organization that provides football and cheerleading/poms for the youth of Bolingbrook and Romeoville; and

Whereas, the Bolingbrook Trojan Youth Athletic Association is a member of the Pop Warner football and cheerleading national charter; and

Whereas, the Bolingbrook Trojan Youth Athletic Association has won two national championships, eight regional titles and 16 conference championships; and

Whereas, to celebrate its 25th anniversary, the athletic club has planned an alumni day at their first home game on August 30, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 30, 1997, as BOLINGBROOK TROJAN YOUTH ATHLETIC ASSOCIATION DAY in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-285

BUCA DI BEPPO DAY

Whereas, Buca di Beppo, Inc. of Minneapolis is opening restaurants in Wheeling and Chicago's Lakeview community; and

Whereas, the opening of Buca di Beppo's new restaurants will be dedicated to the charitable endeavor of a six-day bicycling event to raise funds for AIDS research and treatment; and

Whereas, an anticipated 1,700 participants hope to complete the 470-mile trip from Minneapolis to Chicago, redeeming pledges totaling in excess of \$5 million; and

Whereas, Buca di Beppo, Inc. will contribute to Twin Cities-Chicago AIDS Ride in honor of its grand opening guests;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 17, 1997, as **BUCA DI BEPPO DAY** in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-286

DR. JERRY SEIDEL DAY

Whereas, Dr. Jerry G. Seidel will retire from practicing ophthalmology in the city of Park Ridge after 35 years of private practice and public service in the State of Illinois; and

Whereas, Dr. Seidel has served his profession not only as a practitioner, but also as an assistant professor of surgery at the University of Chicago, the head of Ophthalmology and a board member of Lutheran General Hospital, a board member of Lutheran General Health Systems, the president of the staff of Resurrection Hospital, and a member and president of the University of Chicago Medical School alumni board; and

Whereas, Dr. Seidel has a keen interest in Park Ridge's youth, serving as a member of the District 64 Elementary School Board from 1967-73, a member and president of the District 64 School Caucus from 1964-66 and as a Boy Scout leader of Troop 104; and

Whereas, Dr. Seidel has also been involved in civic activities, serving as a member and president of the Park Ridge Rotarians, a member and lay leader of the Good Shepherd United Methodist Church, and as a member and board member of the St. Luke's Lutheran Church; and

Whereas, Dr. Seidel will be honored on June 14, 1997, in celebration of his 45 years of marriage to Shirley F. Seidel and in recognition of his retirement;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 14, 1997, as **DR. JERRY SEIDEL DAY** in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-287

EASTER SEALS DAY

Whereas, since 1919, the Illinois Easter Seal Society has served children and adults with disabilities; and

Whereas, the Chicago South District Shell Dealers, in partnership with Easter Seals, are holding their fourth annual Benefit to help Easter Seals continue quality services to more than 10,000 children with disabilities in the Chicagoland area; and

Whereas, to recognize the efforts of the South District Shell Dealers and honor their community spirit, Illinois citizens are encouraged to salute the Shell Oil Company/Illinois Easter Seal Society partnership and participate in the many activities planned to support Easter Seals;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

August 25, 1997, as **EASTER SEALS DAY** in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-288

ILLINOIS RIVERS APPRECIATION MONTH

Whereas, Illinois' development as a great State owes much to our rivers, their explorers -- such as Marquette, Joliet, and LaSalle -- and the builders of the forts and later cities along the banks of these rivers -- such as Massac on the Ohio, Starved Rock and Creve Coeur on the Illinois, Kaskaskia on the Mississippi, and Dearborn in Chicago; and

Whereas, Illinois communities, which originally flourished on the banks of the avenues of commerce our rivers provide, are today revitalizing their waterfronts to provide both economical and recreational opportunities while preserving important aspects of their resources and history; and

Whereas, Illinois citizens are becoming increasingly aware of the importance of our rivers as habitat for fish and other aquatic organisms, for recreation, as scenic resources, and for clean drinking water, and of the importance of the riparian corridor for soil conservation and wildlife habitat; and

Whereas, all citizens should be involved in efforts to clean our streams, practice soil conservation, protect scenic areas, and advocate such efforts;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1997 as **ILLINOIS RIVERS APPRECIATION MONTH** in Illinois to increase public awareness of the importance of our rivers as resources vital to our State.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-289

NAIW WEEK

Whereas, professional insurance women constitute more than 50 percent of those employed in the insurance industry; and

Whereas, the National Association of Insurance Women (NAIW) and its 380 local affiliates are dedicated to the development of leaders for the insurance industry; and

Whereas, NAIW and its affiliates promote personal and professional development through education, networking and leadership opportunities to all women in the insurance business; and

Whereas, both national and local organizations continually strive to raise the standards of ethics, consumer education and customer service throughout the insurance industry; and

Whereas, its many local affiliates are engaged in charitable causes to strengthen and enhance hundreds of communities throughout the United States, Canada and Puerto Rico; and

Whereas, professional insurance women have earned recognition for their many accomplishments in the economically vital insurance industry;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 18-24, 1997, as **NAIW WEEK** in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-290

NATIONAL NIGHT OUT DAY

Whereas, August 5, 1997, is the National Association of Town Watch's 14th Annual National Night Out; and

Whereas, National Night Out is designed to heighten crime and drug prevention awareness; generate support for, and participation in, local anti-crime programs; strengthen neighborhood spirit and policy community relations; and send a message to criminals letting them know that neighborhoods are organized and fighting back; and

Whereas, West Chicago will be celebrating its eighth annual National Night Out on August 5, 1997; and

Whereas, West Chicago has been successful in bringing several law enforcement agencies, local businesses, government agencies and local community agencies together for this crime prevention program; and

Whereas, this event in West Chicago would not be possible without the dedication and hard work of the West Chicago Police Department and many volunteers;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim August 5, 1997, as NATIONAL NIGHT OUT DAY in Illinois and encourage all citizens to be aware of the importance of crime prevention programs and the impact their participation can have on reducing crime and drug abuse.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-291

RICHARD "DICK" P. MILLER DAY

Whereas, Richard "Dick" P. Miller has been employed by GTE for more than 40 years, serving in many capacities such as State Manager of Governmental Affairs, Division Service Office Manager, District Commercial Manager, Commercial Manager and many others; and

Whereas, Dick and his wife, Avalon, are the parents of Gary (Jan) of Carlinville and Ron (Terri) of Reston, Virginia; and

Whereas, Dick and Avalon are the grandparents of Nicholas, Jason, Eric, Jessica and Jennifer; and

Whereas, Dick has been involved in many community activities, including Rotary Club, Kiwanis Club, Jaycees, Elks and Chamber of Commerce; and

Whereas, Dick Miller will retire from GTE after 40 years of service on September 16, 1997; and

Whereas, Dick Miller will be honored with a retirement party on May 13, 1997;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 13, 1997, as RICHARD "DICK" P. MILLER DAY in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-292

RUSH NORTH SHORE MEDICAL CENTER WEEK

Whereas, Rush North Shore Medical Center, founded as Skokie Valley Community Hospital, has served as the community hospital for the Village of

Skokie since 1963; and

Whereas, in 1987, Skokie Valley Community Hospital became affiliated with Rush-Presbyterian-St. Luke's Medical Center, one of the nation's premiere academic medical centers; and

Whereas, this affiliation allowed Rush North Shore Medical Center to enhance its service with highly specialized medical experts, state-of-the-art technology and graduate medical education programs in a community setting; and

Whereas, in February 1997, Rush North Shore Medical Center earned Accreditation with Commendation from the Joint Commission on Accreditation of Health Care Organizations, which placed the Center in the top four percent of hospitals in the nation; and

Whereas, Rush North Shore Medical Center is celebrating the 10-year anniversary of its affiliation with Rush-Presbyterian-St. Luke's Medical Center in 1997, and is reaffirming its commitment to helping the Skokie community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 5-11, 1997, as RUSH NORTH SHORE MEDICAL CENTER WEEK in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-293

SCOUTING EXCELLENCE DAY

Whereas, the Northwest Suburban Council of the Boy Scouts of America will hold its first combined recognition event honoring the 1996-97 Classes of Eagles, Silver Beaver recipients and the Friends of Scouting Contributors; and

Whereas, the rank of Eagle Scout is obtained by only five percent of all the scouts in the country, all of whom have demonstrated leadership qualities and been awarded merit badges; and

Whereas, the Silver Beaver Award is given to adults who have volunteered much of their time and efforts to youth; and

Whereas, during its recognition event, the Northwest Suburban Council of the Boy Scouts of America will also honor those who have generously donated to the scouting movement;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 14, 1997, as SCOUTING EXCELLENCE DAY in Illinois.

Issued by the Governor May 12, 1997.

Filed by the Secretary of State May 16, 1997.

97-294

AFRICAN AMERICANS IN WORLD WAR II: A LEGACY OF PATRIOTISM AND VALOR DAY

Whereas, more than one million African American service men and women served the United States in the Armed Forces during World War II; and

Whereas, over 50 years ago, these Americans of African heritage sacrificed along with others to secure freedom and democracy for millions around the world; and

Whereas, the documentary film, "African Americans in World War II: A Legacy of Patriotism and Valor" was made in honor and recognition of these American heroes; and

Whereas, the National Minority Military Museum Foundation and the U.S. Department of the Army Commemorative Committee are co-hosting the Chicago Gala

Premiere of this documentary film will be held May 20, 1997, at the DuSable Museum of African American History;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 20, 1997, as AFRICAN AMERICANS IN WORLD WAR II: A LEGACY OF PATRIOTISM AND VALOR DAY in Illinois.

Issued by the Governor May 14, 1997.

Filed by the Secretary of State May 16, 1997.

97-295

AUNT GERT DAY

Whereas, Gertrude Elizabeth Moseley was born on May 16, 1917, in Lauderdale, Mississippi, the youngest of five children born to Elizabeth and Thomas Moseley; and

Whereas, Gertrude, affectionately known as "Aunt Gert," shared 72 years of marriage with James Turner Fredd, until his death in 1991, and she often reminisces about their "love at first sight;" and

Whereas, she has been an active and dedicated church member since age 12, when she joined the Little Zion CMF Church in Mississippi. She represented her church as a delegate to the district Sunday school convention and also organized and supported a number of youth groups in the church and her community; and

Whereas, Gertrude is a member of the Progressive Social Club at the Allen Metropolitan C.M.E. Church; and

Whereas, Gertrude was a professional seamstress who taught herself how to sew, and her creative flair was evident in her work; and

Whereas, in 1923, she was employed as a theatrical costume designer for dressmaker Eva Lanquay, and Gertrude's talent enabled the firm to expand from simple outfits and accessories to the production of costumes for numerous stage shows in Chicago. Her apparel was used by Ziegfield Follies and several movie stars of that era;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 16, 1997, as AUNT GERT DAY in Illinois in honor of Gertrude Elizabeth Fredd's 100th birthday.

Issued by the Governor May 14, 1997.

Filed by the Secretary of State May 16, 1997.

97-296

RIDESHARE WEEK

Whereas, ridesharing is an important component of the comprehensive strategy of the St. Louis Regional Clean Air Partnership; and

Whereas, the participation of the Citizens of the St. Louis County region is vital to the success of the Clean Air Partnership; and

Whereas, through partnerships and a spirit of shared responsibility and awareness, business and government, employer and employee can work toward improving our transportation system; and

Whereas, attracting more people to rideshare as a means of commuting to and from work results in alleviating traffic congestion and improving the area's air quality; and

Whereas, there is an urgent need for commuters to understand and be aware of transportation alternatives to driving alone to and from work that will

reduce air pollution, traffic congestion, transportation costs and parking needs; and

Whereas, these alternatives include carpooling, vanpooling, walking, biking and use of public transit such as buses and MetroLink;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 22-28, 1997, as RIDESHARE WEEK in Illinois.

Issued by the Governor May 14, 1997.

Filed by the Secretary of State May 16, 1997.

97-297

VOCATIONAL STUDENT ORGANIZATIONS WEEK

Whereas, the proper education of today's youth is a concern of all Americans; and

Whereas, vocational student organizations are dedicated to the advancement of proper education, training and development of American's youth; and

Whereas, for the past 20 years, organizations such as the Illinois Coordinating Council for Vocational Student Organizations (ICCVSO) have advanced the awareness of the importance of vocational student organizations as an integral part of the educational curriculum; and

Whereas, vocational student organizations in Illinois include the Business Professionals of America, Future Business Leaders of America (FBLA), Future Homemakers of America/Home Economics Related Occupations (FHA/HERO), Health Occupations Students of American (HOSA), Illinois Association of FFA (FFA), Illinois Association of DECA (DECA), Illinois Postsecondary Agricultural Student Organization (PAS), Phi Beta Lambda (PBL), Technology Student Association (TSA) and Illinois Association of Vocational Industrial Clubs of America (VICA);

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 5-11, 1997, as VOCATIONAL STUDENT ORGANIZATIONS WEEK in Illinois in recognition of the contributions made by these organizations to the education of our youth.

Issued by the Governor May 14, 1997.

Filed by the Secretary of State May 16, 1997.

Rules acted upon during the quarter of April 1 through June 30, 1997 (Issues 17-28) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 III. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-2. The letter "R" designates a rule that is being repealed. The quarterly Sections Affected Index and Cumulative Index will be published in Issue 29 (July 15); Issue 42 (October 17); and Issue 3 (January 16, 1998). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatate@ccgate.sos.state.il.us (Internet address).

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